799. By Mr. O'CONNELL of New York: Petition of the Brotherhood of Locomotive Engineers, Long Island Division, No. 269, Jamaica, Long Island, N. Y., favoring the passage of Senate bill 2306 and House bill 7180; to the Committee on Interstate and Foreign Commerce.

800. By Mr. HUDSPETH: Petition of El Paso Chapter of the American Association of Engineers, indorsing coordination of all engineering and construction work of the Government in one Federal department; to the Committee on the Civil Service.

801. By Mr. SWING: Petition of Southern District California Federation of Women's Clubs, urging continuation of Federal aid to nonward indigent Indians of California; to the Committee on Indian Affairs.

802. Also, petition of San Diego County Federation of the California Federation of Women's Clubs, urging continuation of Federal aid to nonward indigent Indians of California; to the Committee on Indian Affairs.

803. By Mr. TINKHAM: Resolution of a meeting held at Zion African Methodist Episcopal Church, Boston, under auspices of the Declaration of Independence Sesquicentennial Citizens' Committee and Boston Branch of the National Equal Rights League, that the memorial half dollars to be coined in honor of the sesquicentennial of the Declaration of Independence shall bear the inscription "All men are created equal"; to the Committee on Industrial Arts and Expositions.

804. By Mr. WELLER: Petition of the American Legion, New York County Organization, requesting Congress to appropriate money to defray the expenses of gold-star mothers to visit the graves of their sons now buried in France; to the Committee on Military Affairs.

SENATE

WEDNESDAY, *February 24, 1926*

The Chaplain, Rev. J. J. Muir, D. D., offered the following prayer:

Our Father, we thank Thee for the morning, for its brightness and cheer. Grant that we may realize it in our hearts and look upon the duties of the day as freighted with pleasure to fulfill everything required of us and to meet Thine approbation.

Be pleased to look upon the great gathering in our city at this time, and as these men and women are here assembled to deal with questions of education may they be helped with the larger wisdom so that they may understand the grave responsibility of training the youth of to-day for the duties of to-morrow. The Lord give them grace. The Lord give them understanding, that beyond the culture of the mind there may be the development, enrichment, and ennoblement of character. We ask every favor in Jesus' name. Amen.

The Chief Clerk proceeded to read the Journal of yesterday's proceedings, when, on the request of Mr. CURTIS and by unanimous consent, the further reading was dispensed with and the Journal was approved.

RIVERTON PROJECT, WYOMING (S. DOC. NO. 70)

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, with an accompanying letter from the Acting Director of the Bureau of the Budget, transmitting a supplemental estimate of appropriation for the Department of the Interior, Bureau of Reclamation, Riverton project, Wyoming, fiscal year 1927, amounting to $200,000, which, with the accompanying papers, was referred to the Committee on Appropriations and ordered to be printed.

DISPOSITION OF USELESS PAPERS

The VICE PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting, pursuant to law, schedules and lists of papers and documents in the files of the Treasury Department not needed in the transaction of business and having no permanent value, and asking for action looking to their disposition, which was referred to a Joint Select Committee on the Disposition of Useless Papers in the Executive Departments. The Vice President appointed Mr. SMOOT and Mr. SIMMONS members of the committee on the part of the Senate.

The VICE PRESIDENT also laid before the Senate a communication from the Acting Secretary of the Navy, transmitting, pursuant to law, lists of useless records and papers in the files of the Navy Department no longer needed in the transaction of public business and having no permanent value or historic interest, and asking for action looking to their disposition, which was referred to a Joint Select Committee on the Disposition of Useless Papers in the Executive Departments. The Vice President appointed Mr. HALE and Mr. SWANSON members of the committee on the part of the Senate.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Haltigan, one of its clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 1) to reduce and equalize taxation, to provide revenue, and for other purposes.

The message also announced that the House had receded from its disagreement to the amendments of the Senate Nos. 39 and 60 to the bill (H. R. 8722) making appropriations to supply urgent deficiencies in certain appropriations for the fiscal year ending June 30, 1926, and prior fiscal years, to provide urgent supplemental appropriations for the fiscal years ending June 30, 1926, and June 30, 1927, and for other purposes; that the House had receded from its disagreement to the amendments of the Senate Nos. 17, 58, and 59, and had concurred therein severally with an amendment, in which it requested the concurrence of the Senate, and that the House insisted upon its disagreement to the amendments of the Senate Nos. 27 and 28.

The message further announced that the House had passed without amendment the bill (S. 2825) to grant the consent and approval of Congress to the South Platte River compact.

PETITIONS AND MEMORIALS

Mr. SHORTRIDGE presented a memorial signed by 320 citizens of Auburn, Placer County, Calif., remonstrating against any modification of the eighteenth amendment to the Constitution or any radical changes in the so-called Volstead Act, which was referred to the Committee on the Judiciary.

Mr. NORBECK presented resolutions adopted by the Brown County Farm Bureau, of Aberdeen, S. Dak., protesting against any change in the franking privilege for agricultural extension work, which were referred to the Committee on Post Offices and Post Roads.

He also presented a resolution of the board of directors of the Sully County Farm Bureau, of South Dakota, favoring the improvement of the Missouri River for navigation purposes as far and as rapidly as possible, which was referred to the Committee on Commerce.

He also presented resolutions of the board of directors of the South Dakota Wheat Growers' Association, favoring the passage of legislation whereby the exportable surplus of agricultural commodities may be segregated, so as not to fix the prices of commodities at world levels, which were referred to the Committee of Agriculture and Forestry.

He also presented memorials signed by 24 members of the Camp Fire Organization of America, and of 36 members of the Boy Scouts, and of 306 citizens, all of Belle Fourche, S. Dak., remonstrating against any modification of the so-called Volstead Act so as to permit the manufacture and sale of light wines and beers, which were referred to the Committee on the Judiciary.

He also presented resolutions adopted by the Chamber of Commerce, of Yankton, S. Dak., favoring adequate appropriations for the improvement of the upper Missouri River, which were referred to the Committee on Commerce and ordered to be printed in the RECORD, as follows:

Resolution passed by the Yankton Chamber of Commerce, Yankton, S. Dak.

Whereas the Congress of the United States in 1910 adopted projects for the improvement of the Mississippi River to the head of navigation with a depth of 6 feet and the Missouri River to Kansas City with a depth of 6 feet, all such improvements to be completed within 10 years; and

Whereas Congress has not carried out the projects as outlined, having failed to make appropriations in amounts sufficient to complete the improvements in the 10-year period resulting in the proposed improvement being not to succeed 50 per cent completed; and

Whereas the money heretofore appropriated by Congress and expended in the improvement of the upper Mississippi and Missouri Rivers can not be effected to aid the agricultural and commercial interests in these valleys because dependable and profitable navigation of the rivers can not be successfully established until the improvement thus started is practically completed; and

Whereas dependable navigation established on the Missouri River can be improved according to plans of the United States Engineering

Corps heretofore adopted by Congress for the improvement of the river to Kansas City and such improvement extended north to Yankton, S. Dak., and give the people of South Dakota and Nebraska, as well as other sections of the Missouri River Valley, additional as well as cheaper transportation facilities to move the surplus farm products out and to bring to this territory a large tonnage of supplies of manufactured products for domestic use: Therefore be it

Resolved by the Chamber of Commerce of Yankton, S. Dak., this 22d day of December, 1925, That we favor and urge the Congress of the United States to make provisions by law and by proper appropriation for the immediate completion of the Missouri River within three years by placing it under the continuing-contract system in accordance with plans heretofore adopted by Congress for the improvement of the Missouri River as far north as Yankton, S. Dak., and even farther, if found feasible, so that water transportation may be made available to the farmers, shippers, and consumers in Kansas, Missouri, Iowa, Nebraska, and South Dakota without delay. And be it further

Resolved, That the upper Missouri River Valley being situated a greater distance in the interior than any other section of the United States and being therefore compelled to pay high freight rates on the long haul on the surplus farm products shipped out as well as a high freight rate on raw material and manufactured products into this section creates an emergency requiring immediate relief; therefore we urge our Representatives in Congress, our United States Senators from South Dakota and from Nebraska, not only to vote but to bring all possible influence to bear in order that the improvement of the Missouri River as far as Yankton, S. Dak., may be made available to serve the agricultural, commercial, and industrial interests of the States of South Dakota and Nebraska at the very earliest possible date.

Done this 22d day of December, 1925.

On behalf of board of directors, Yankton Chamber of Commerce, Yankton, S. Dak.

J. M. LLOYD, *President.*
R. R. JACOBSON, *Secretary.*

REPORTS OF COMMITTEES

Mr. FESS, from the Committee on the Library, to which was referred to the joint resolution (S. J. Res. 30) authorizing the establishment of a commission to be known as the Sesquicentennial of American Independence and the Thomas Jefferson Centennial Commission of the United States, in commemoration of the one hundred and fiftieth anniversary of the signing of the Declaration of Independence and the one hundredth anniversary of the death of Thomas Jefferson, the author of that immortal document, reported it without amendment.

Mr. GOODING, from the Committee on Agriculture and Forestry, to which was referred the bill (S. 2465) to amend the act entitled "An act to regulate foreign commerce by prohibiting the admission into the United States of certain adulterated grain and seeds unfit for seeding purposes," approved August 24, 1912, as amended, and for other purposes, reported it without amendment.

Mr. SMITH, from the Committee on Interstate Commerce, to which was referred the bill (S. 2808) to amend section 24 of the interstate commerce act, as amended, reported it with amendments and submitted a report (No. 203) thereon.

Mr. PHIPPS, from the Committee on Banking and Currency, to which was referred the bill (S. 756) directing the Secretary of the Treasury to complete purchases of silver under the act of April 23, 1918, commonly known as the Pittman Act, reported it without amendment and submitted a report (No. 204) thereon.

Mr. STEPHENS, from the Committee on Claims, to which was referred the bill (S. 2111) for the relief of Levin P. Kelly, reported it without amendment and submitted a report (No. 205) thereon.

Mr. BAYARD, from the Committee on Claims, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

A bill (S. 99) for the relief of the owner of the lighter *Eastman No. 14* (Rept. No. 206); and

A bill (S. 3019) to reimburse certain fire-insurance companies the amounts paid by them for property destroyed by fire in suppressing bubonic plague in the Territory of Hawaii in the years 1899 and 1900 (Rept. No. 207).

Mr. CAPPER, from the Committee on Claims, to which was referred the joint resolution (S. J. Res. 2) for the relief of George Horton, reported it without amendment and submitted a report (No. 208) thereon.

Mr. BROOKHART, from the Committee on Claims, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

A bill (S. 113) for the relief of the owner of the American barge *Texaco No. 153* (Rept. No. 209); and

A bill (S. 646) for the relief of F. M. Gray, jr., Co. (Rept. No. 210).

Mr. BROOKHART also, from the Committee on Claims, to which was referred the bill (S. 1803) for the relief of Walter W. Price, reported it with an amendment and submitted a report (No. 211) thereon.

Mr. STANFIELD, from the Committee on Claims, to which was referred the bill (S. 3074) for the relief of John H. Gattis, reported it without amendment and submitted a report (No. 212) thereon.

He also, from the same committee, to which was referred the bill (S. 2098) for the relief of M. Barde & Sons (Inc.), Portland, Oreg., reported it with an amendment and submitted a report (No. 213) thereon.

Mr. WILLIS, from the Committee on Territories and Insular Possessions, to which was referred the bill (S. 2529) to amend an act approved May 7, 1906, entitled "An act providing for the election of a Delegate to the House of Representatives from the Territory of Alaska, reported it with an amendment and submitted a report (No. 214) thereon.

Mr. BAYARD, from the Committee on Territories and Insular Possessions, to which was referred the bill (S. 3213) to provide for the disposition of moneys of the legally adjudged insane of Alaska who have been cared for by the Secretary of the Interior, reported it with amendments and submitted a report (No. 215) thereon.

Mr. WADSWORTH, from the Committee on Military Affairs, to which was referred the bill (H. R. 2987) for the relief of Samuel T. Hubbard, jr., reported it without amendment and submitted a report (No. 216) thereon.

ENROLLED JOINT RESOLUTION PRESENTED

Mr. GREENE, from the Committee on Enrolled Bills, reported that on the 24th instant that committee presented to the President of the United States the enrolled joint resolution (S. J. Res. 41) providing for the filling of a proximate vacancy in the Board of Regents of the Smithsonian Institution of the class other than Members of Congress.

HEARINGS BEFORE COMMITTEE ON IRRIGATION AND RECLAMATION

Mr. KEYES. Mr. President, from the Committee to Audit and Control the Contingent Expenses of the Senate I report back favorably without amendment Senate Resolution No. 150, and I ask unanimous consent for its immediate consideration.

The VICE PRESIDENT. The clerk will read the resolution.

The Chief Clerk read the resolution (S. Res. 150) submitted by Mr. MCNARY on the 18th instant, as follows:

Resolved, That the Committee on Irrigation and Reclamation, or any subcommittee thereof, hereby is authorized during the Sixty-ninth Congress to send for persons, books, and papers, to administer oaths, and to employ a stenographer at a cost not to exceed 25 cents per 100 words, to report such hearings as may be had in connection with any subject which may be before said committee, the expenses thereof to be paid out of the contingent fund of the Senate, and that the committee, or any subcommittee thereof, may sit during the sessions or recesses of the Senate.

The VICE PRESIDENT. Is there objection to the consideration of the resolution?

Mr. OVERMAN. Mr. President, I ask the Senator from New Hampshire with reference to the amendment which was agreed to by the Committee on Appropriations with regard to paying money out of the contingent fund, and whether the resolution has such a provision in it?

Mr. KEYES. No; it has not, and I do not think it is necessary, for the reason that this is the usual form of a resolution granting authority to a committee to hold hearings.

Mr. OVERMAN. I know it is in the usual form, and that is the reason why I asked the question. Heretofore we have been passing all kinds of resolutions providing for the expenditure of money, amounting to hundreds of thousands of dollars. We adopted a provision in the Committee on Appropriations the other day by which a limitation is to be placed on expenses of this character. The Senator is a member of the Committee on Appropriations and is fully informed about the matter. Does the resolution now before the Senate take care of that situation?

Mr. KEYES. No; it does not.

Mr. OVERMAN. Does the resolution allow the expenditure of an unlimited sum?

Mr. KEYES. It merely allows the committee to hold hearings.

Mr. OVERMAN. It is not for the purpose of employing lawyers or anything of that nature?

Mr. KEYES. No; not at all.

Mr. OVERMAN. That has been done under similar resolutions in the past.

Mr. KEYES. The committee can employ under this resolution no one but a stenographer.

Mr. OVERMAN. The resolution provides only for the employment of a stenographer?

Mr. KEYES. It does.

Mr. WARREN. I may say to the Senator from North Carolina that I also am watching the matter to which he refers. The resolution now presented by the Senator from New Hampshire is in the usual form, to allow the committee to hold hearings and merely to employ a stenographer.

Mr. OVERMAN. If the resolution is in the usual form granting authority to the committee to hold hearings, it is all right, but we shall have to watch out for expenditures of the sort to which I have referred. If we do not put some limitation upon investigating committees, they will be employing lawyers at $1,200 to $1,500 a week or month, and we will swamp the contingent fund. The Senator from New Hampshire realizes that as well as I do, because he is a member of the Committee on Appropriations.

Mr. KEYES. Yes; I have that in mind.

The resolution was considered by unanimous consent and agreed to.

SPECIAL ASSISTANT CLERK TO INTERSTATE COMMERCE COMMITTEE

Mr. KEYES. From the Committee to Audit and Control the Contingent Expenses of the Senate I report back favorably without amendment the resolution (S. Res. 124) authorizing the Interstate Commerce Committee to employ a special assistant clerk during the remainder of the Sixty-ninth Congress.

Mr. GOODING. Mr. President, I ask for the immediate consideration of the resolution.

The VICE PRESIDENT. The resolution will be read for information.

The Chief Clerk read the resolution (S. Res. 124) submitted by Mr. GOODING January 21, 1926, as follows:

Resolved, That the Committee on Interstate Commerce of the Senate hereby is authorized to employ a special assistant clerk during the remainder of the Sixty-ninth Congress, to be paid out of the contingent fund of the Senate, at the rate $2,500 per annum.

The VICE PRESIDENT. Is there objection to the present consideration of the resolution?

Mr. ROBINSON of Arkansas. Mr. President, I think the Senator asking unanimous consent for the present consideration of the resolution should explain to the Senate the occasion for it.

Mr. GOODING. The Interstate Commerce Committee has before it, or on its calendar, at the present time something like 40 different bills, some of which are important, such as the labor bill, the bill providing for the consolidation of railroads, and so forth. The Interstate Commerce Committee, in dealing with the transportation problem of America, is dealing with the greatest problem of the Government. We have in the country almost 50 per cent of all the railroads in the world, carrying 50 per cent of all the railroad tonnage of the world. I am sure that the committee has imposed upon its chairman onerous duties entirely too long. Pouring into the office of the chairman of the Interstate Commerce Committee every day are from 100 to 200 letters, and on many days from 50 to 100 telegrams. I think we all understand that the railroad companies form the greatest organization in America, and when any legislation is before the Congress in which they are interested, they seem to be able to arouse the whole country.

Mr. ROBINSON of Arkansas. Mr. President, may I ask the Senator a question?

Mr. GOODING. I yield.

Mr. ROBINSON of Arkansas. How many clerks has the committee now?

Mr. GOODING. It has not any. It has been without a clerk. The chairman of the committee, of course, has the usual number of clerks allotted to Senators, but the committee has not any special clerk at all.

Mr. ROBINSON of Arkansas. I did not ask how many special clerks the committee has; I asked the number of clerks.

Mr. GOODING. Of course, the Senator from Indiana [Mr. WATSON] has the same number of clerks that every Senator has.

Mr. ROBINSON of Arkansas. How does it happen that the chairman of the committee does not himself present the resolution and the request?

Mr. GOODING. I think the Senator from Indiana is a little delicate about it. I volunteered to take up the matter and present the resolution. The Committee on Interstate Commerce is one of the largest committees in the Senate—a major committee—and I am sure that what we ought to have as a matter of right is an expert rate man instead of an ordinary clerk. It would be very valuable to the committee to have such an assistant, and I hope in time we may have one.

Mr. ROBINSON of Arkansas. I think if the committee undertakes to deal with questions affecting rates it would be advisable to have a rate clerk. Of course, if the four clerks of the committee now authorized, and who have already been employed, are inadequate to perform the services required by the committee, there ought to be an additional clerk. If the committee makes that representation, I have no objection.

Mr. BRUCE. Mr. President——

The VICE PRESIDENT. Does the Senator from Idaho yield to the Senator from Maryland?

Mr. GOODING. I yield.

Mr. BRUCE. I would like to ask the Senator from Indiana [Mr. WATSON], the chairman of the Interstate Commerce Committee, whether this matter was brought before the committee? It never was, I am sure, while I was present at any of its meetings.

Mr. WATSON. I will say to the Senator from Maryland that the question was brought up not by myself but by many members of the committee. I do not recall whether the Senator from Maryland was present or not. The matter was unanimously agreed to as almost an essential proposition. I did not myself bring it up, but it was brought up by many members of the committee who were present.

Mr. CUMMINS. Mr. President——

Mr. GOODING. I yield to the Senator from Iowa.

Mr. CUMMINS. I have had some experience as chairman of the Interstate Commerce Committee. I think that something more is desirable than is specified in the resolution. I do not believe that an additional clerk of the kind that ought to be employed by the committee can be secured for the compensation which the law would permit the chairman to pay. I believe that he ought to be a man skilled in transportation, not particularly in rate making but in every department of that great subject. I hope that the Senator from Idaho will amend his resolution so that the chairman will be able to secure the right kind of a man, a man competent in this particular subject. All the clerks are competent for the work they are called upon to do, but there is a certain training necessary in order to make a man especially useful to the Senator from Indiana, as I have suggested.

Mr. SMITH. Mr. President, I would suggest to the Senator that the resolution be referred to the Committee on Interstate Commerce. I am sure if the matter is brought up before the committee we will give it proper consideration and reach a proper conclusion.

Mr. GOODING. Acting on the suggestion of the Senator from South Carolina, as well as the suggestion of the Senator from Iowa, that we should have a rate expert as a secretary for the Interstate Commerce Committee, I withdraw my request for unanimous consent, and I now request that the resolution be referred to the Committee on Interstate Commerce.

Mr. JONES of Washington. Mr. President, I merely wish to indorse the suggestion of the Senator from South Carolina [Mr. SMITH]. I would have no objection to a proper expert being provided for the committee. I can see the need for such an expert, and I believe that is the provision which should be made.

The VICE PRESIDENT. Without objection, the resolution will be referred to the Committee on Interstate Commerce.

BILLS INTRODUCED

Bills were introduced, read the first time, and by unanimous consent, the second time, and referred as follows:

By Mr. HARRELD:

A bill (S. 3259) authorizing the enrollment of Martha E. Brace as a Kiowa Indian and directing issuance of patent in fee to certain lands;

A bill (S. 3260) to authorize the Secretary of the Interior and the Secretary of War to lease lands for game-preserve and game-propagation purposes to State game departments or other organizations under State or Federal control; and

(By request.) A bill (S. 3261) to provide for allotting in severalty agricultural lands within the Tongue River or Northern Cheyenne Indian Reservation in Montana, and for other purposes; to the Committee on Indian Affairs.

By Mr. CUMMINS:

A bill (S. 3262) to authorize the General Accounting Office to credit certain accounts; to the Committee on Claims.

By Mr. HARRISON:

A bill (S. 3264) for the relief of certain beneficiaries of the United States Veterans' Bureau; to the Committee on Finance.

A bill (S. 3265) granting a pension to Cora Dixie Willett; and

A bill (S. 3266) granting a pension to Lillian Belle Montgomery; to the Committee on Pensions.

By Mr. NEELY:

A bill (S. 3267) for the relief of the heirs of Henry Sturm, deceased; to the Committee on Claims.

By Mr. WHEELER:

A bill (S. 3268) authorizing repayment of excess amounts paid by purchasers of certain lots in the town site of Bowdoin, Mont.; to the Committee on Public Lands and Surveys.

By Mr. TRAMMELL:

A bill (S. 3269) to grant to the city of Key West, Fla., a tract of land belonging to the United States naval hospital at that place; to the Committee on Naval Affairs.

By Mr. GERRY:

A bill (S. 3270) for the relief of Thomas J. McDonald; to the Committee on Military Affairs.

By Mr. COPELAND:

A bill (S. 3271) for the relief of Robert H. Leys; to the Committee on Claims.

By Mr. COUZENS:

A bill (S. 3272) to extend the time for commencing and completing the construction of a bridge across Detroit River within or near the city limits of Detroit, Mich. (with an accompanying paper); to the Committee on Commerce.

By Mr. CURTIS:

A bill (S. 3273) for the relief of the Topeka Tent & Awning Co. (with accompanying papers); to the Committee on Finance.

A bill (S. 3274) for the relief of Lieut. (Junior Grade) O. C. F. Dodge, United States Navy (with accompanying papers); to the Committee on Naval Affairs.

A bill (S. 3275) for the relief of Harry Hume Ainsworth (with accompanying papers); to the Committee on Military Affairs.

A bill (S. 3276) granting an increase of pension to Joseph Southard (with accompanying papers); and

A bill (S. 3277) granting an increase of pension to Elizabeth Wolford (with accompanying papers); to the Committee on Pensions.

By Mr. McKINLEY:

A bill (S. 3278) for the purchase of a site and the erection of a public building at White Hall, Ill.; to the Committee on Public Buildings and Grounds.

A bill (S. 3279) granting a pension to Nelle Head (with an accompanying paper); and

A bill (S. 3280) granting a pension to Willard D. Cook; to the Committee on Pensions.

By Mr. WADSWORTH:

A bill (S. 3283) to provide for the appointment of Army field clerks and field clerks, Quartermaster Corps, as warrant officers, United States Army; and

A bill (S. 3284) to amend a portion of section 15 of an act entitled "An act for making further and more effectual provision for the national defense, and for other purposes," approved June 3, 1916, as amended by the act of June 4, 1920; to the Committee on Military Affairs.

By Mr. McKINLEY (by request):

A bill (S. 3285) to amend section 17 of the Federal farm loan act, approved July 17, 1916 (with accompanying papers); to the Committee on Banking and Currency.

By Mr. MAYFIELD:

A bill (S. 3286) to authorize reduced freight rates in cases of emergency; to the Committee on Interstate Commerce.

EXTENSION OF TIME FOR CONVERTING TERM INSURANCE

Mr. HARRISON. Mr. President, under the law the time for the conversion of insurance of the veterans of the great World War will expire on July 2 next. By the bill which I now introduce it is proposed to extend that time for five years. I ask that the bill may be read and appropriately referred.

The bill (S. 3263) to extend the time for converting term insurance under the World War veterans' act, 1924, as amended, was read twice by its title and referred to the Committee on Finance.

FIFTH AND SIXTH DELAWARE REGIMENTS

Mr. BAYARD. I introduce a bill to authorize the Secretary of the Interior and the Commissioner of Pensions to compute service of the Fifth and Sixth Delaware Regiments from enlistment to discharge.

In connection with the bill I desire to submit a letter from the office of The Adjutant General dated March 24, 1910, to Senator Henry A. du Pont, of the State of Delaware, and also a report submitted by the Senator from Delaware made in connection with the same matter. I ask that these papers, together with the bill, may be referred to the Committee on Pensions, and ordered to be printed.

The bill (S. 3281) to authorize the Secretary of the Interior and the Commissioner of Pensions to compute service of the Fifth and Sixth Delaware Regiments from enlistment to discharge was read twice by its title and, with the accompanying papers, referred to the Committee on Pensions.

SUSAN MARSH WILLIAMS

Mr. SMITH presented sundry papers to accompany the bill (S. 677) granting an increase of pension to Susan Marsh Williams, widow of George Washington Williams, late rear admiral, United States Navy, heretofore introduced by him and referred to the Committee on Pensions.

AMENDMENTS TO PUBLIC BUILDINGS BILL

Mr. OVERMAN and Mr. SHEPPARD each submitted an amendment intended to be proposed by them to the bill (H. R. 6559) for the construction of certain public buildings, and for other purposes, which were ordered to lie on the table and to be printed.

AMENDMENTS TO INTERIOR DEPARTMENT APPROPRIATION BILL

Mr. CURTIS submitted the following amendments intended to be proposed by him to House bill 6707, the Interior Department appropriation bill, which were referred to the Committee on Appropriations and ordered to be printed:

Insert at the proper places in the bill:

For enlarging the office building for administrative purposes at Haskell Institute, Lawrence, Kans., $10,000.

For enlarging the chapel or auditorium at Haskell Institute, Lawrence, Kans., $25,000.

ALASKA FUR-SEAL SKINS (S. DOC. NO. 73)

Mr. JONES of Washington. Mr. President, some time ago the junior Senator from Montana [Mr. WHEELER] introduced a resolution calling on the Secretary of Commerce for certain information concerning Government owned fur-seal skins. The Committee on Commerce referred the resolution to the Secretary, and got the information without bringing the resolution back to the Senate, which is entirely satisfactory to the Senator from Montana. I have also secured some additional information in connection with the same matter. I ask that it may be printed as a Senate document, and referred to the Committee on Commerce.

The VICE PRESIDENT. Without objection, it will be so ordered.

ALICE B. WELCH

Mr. KEYES submitted the following concurrent resolution (S. Con. Res. 3), which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved by the Senate (the House of Representatives concurring), That there shall be paid, one-half from the contingent fund of the Senate, and one-half from the contingent fund of the House of Representatives, to Alice B. Welch, widow of John Welch, late Chief Clerk, and for 25 years an employee in the office of the Architect of the Capitol, one year's salary at the rate he was receiving by law at the time of his death.

POSTAL RECEIPTS

Mr. HARRISON. Mr. President, I ask unanimous consent for the present consideration of the resolution which I send to the desk.

The VICE PRESIDENT. The resolution will be read.

The Chief Clerk read the resolution (S. Res. 156), as follows:

Resolved, That the Postmaster General is directed to furnish to the Senate, at the earliest practicable date, a statement showing the postal receipts by classes for the period from July 1, 1925, to December 31, 1925, both inclusive, as compared with such receipts for the corresponding period of the year 1924, together with a statement containing such observations as the Postmaster General may be in a position to make relative to the effect, on the volume of business and revenue received, of the postal rates now in force.

The VICE PRESIDENT. Is there objection to the immediate consideration of the resolution?

Mr. CURTIS. I ask that it may go over under the rule.

The VICE PRESIDENT. The resolution will go over under the rule.

EXCLUSION OF COUNTESS KAROLYI

Mr. WHEELER submitted the following resolution (S. Res. 157), which was referred to the Committee on Foreign Relations:

Whereas the Department of State has officially acted to exclude the Countess Karolyi from the United States; and

Whereas it has been charged that the exclusion of the Countess Karolyi has resulted from the forging of certain documents which tended to connect Countess Karolyi with certain undesirable political organizations with whom the United States is not on friendly terms; and

Whereas information has been obtained which tends to show that the exclusion of the Countess Karolyi resulted from the efforts of certain persons acting at the behest and in the employ of the minister to the United States from Hungary; and

Whereas certain written reports exist which detail the activities of a certain private detective agency, hired and employed by said minister to the United States from Hungary, during the time such detective agency hounded and trailed the Count and Countess Karolyi while the latter were visiting in America, for the purpose of securing unfavorable and inaccurate information purporting to show a connection existing between Count and Countess Karolyi and certain foreign organizations held objectionable to the principles of the Government of the United States; and

Whereas this information of an unfavorable and fictitious character was turned over to the minister to the United States from Hungary by the certain private detective agency for the sum of approximately $20,000 by the said minister to the United States from Hungary to the detective agency actually paid; and

Whereas the said minister informed his paid agents, the detective agency mentioned, that these reports were to be in turn used to present a report to Secretary of State Kellogg, which would result in the exclusion of the Countess Karolyi: Therefore be it

Resolved, That the Committee on Foreign Relations investigate the activities of the said minister to the United States from Hungary and the detective agency employed by him in connection with the Karolyi exclusion.

CHARLES EDWIN HIGHTOWER

Mr. TRAMMELL submitted the following resolution (S. Res. 158), which was referred to the Committee on Post Offices and Post Roads:

Whereas Charles Edwin Hightower, of Jacksonville, Fla., has prepared a list of suggestions for the improvement of the United States Postal Service; and

Whereas it is claimed by the said Charles Edwin Hightower that to have said suggestions installed would bring about a greater degree of efficiency and also operate for economy in the United States Postal Service; and

Whereas it is alleged that certain of his said suggestions heretofore submitted to the United States Post Office Department have been adopted by the department and that he has not been compensated therefor by the Government: Therefore be it

Resolved, That the Committee on Post Offices and Post Roads be, and it is hereby, directed to investigate the merits of the said suggestions made by the said Charles Edwin Hightower for the improvement of the United States Postal Service, with a view to determining whether or not the same or any number thereof should be adopted and Mr. Hightower compensated therefor; be it

Further resolved, That the said committee ascertain whether or not the Post Office Department has in operation any suggestions made by the said Charles Edwin Hightower for which in justice he should be compensated by the Government; and if so, what compensation would be reasonable for Mr. Hightower for the services rendered by him to the Government.

INVESTIGATIONS BY THE PUBLIC LANDS COMMITTEE

Mr. CAMERON submitted the following resolution (S. Res. 159), which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That Senate Resolution No. 347, agreed to March 4, 1925, authorizing the Committee on Public Lands and Surveys, or any subcommittee thereof, to investigate all matters relating to national forests, forest reserves, and other lands withdrawn from entry, hereby is continued in full force and effect until the end of the Sixty-ninth Congress, the expenses to be incurred under authority of this continuing resolution to be paid from the contingent fund of the Senate, but not to exceed the sum of $5,000.

URGENT DEFICIENCY APPROPRIATIONS

Mr. WARREN. I ask that the Vice President lay before the Senate the action of the House of Representatives on certain amendments of the Senate to the urgent deficiency appropriation bill.

The VICE PRESIDENT laid before the Senate the action of the House of Representatives receding from its disagreement to the amendments of the Senate Nos. 39 and 60 to the bill (H. R. 8722) entitled "An act making appropriations to supply urgent deficiencies in certain appropriations for the fiscal year ending June 30, 1926, and prior fiscal years, to provide urgent supplemental appropriations for the fiscal years ending June 30, 1926, and June 30, 1927, and for other purposes," and concurring therein; receding from its disagreement to the amendment of the Senate No. 17 and concurring therein with an amendment, in line 6, after the word "forests," to insert "on account of obligations heretofore incurred"; and in lines 12 and 13 to strike out "*Provided*, This authorization shall not extend beyond June 30, 1927"; receding from its disagreement to the amendment of the Senate No. 58 and concurring therein with an amendment, in lieu of the matter inserted, to insert the following:

NATIONAL SESQUICENTENNIAL EXPOSITION

SEC. 4. For carrying out the public resolution of the Sixty-ninth Congress entitled "Joint resolution providing for the participation of the United States in the sesquicentennial celebration in the city of Philadelphia, Pa., and authorizing an appropriation therefor, and for other purposes," as follows: For the exhibit and participation by the executive departments and independent establishments of the Government and such other expenditures as may be deemed necessary by the National Sesquicentennial Exhibition Commission, including salaries in the District of Columbia and elsewhere, actual and necessary traveling expenses, rent, and all other expenditures authorized by section 1; compensation of the commissioner of sesquicentennial exposition as authorized by section 3; $1,186,500, of which not more than $250,000 shall be allocated to the War Department and not more than $350,000 to the Navy Department as authorized by section 1; for the further participation by the Government for the construction of buildings as authorized by section 2, $1,000,000; in all, $2,186,500, to remain available during the fiscal year 1927.

And receding from its disagreement to the amendment of the Senate No. 59 and concurring therein with an amendment, in lieu of the matter inserted, to insert the following:

BOSTON SESQUICENTENNIAL CELEBRATION

SEC. 5. To enable the Government of the United States to participate in the Sesquicentennial Celebration of the Evacuation of Boston by the British, to be held in the city of Boston, Mass., March 17, 1926, there is hereby created a Federal commission to be known as the United States Evacuation Day Sesquicentennial Commission (hereinafter referred to as the commission) and to be composed of five commissioners, as follows: One person to be appointed by the President of the United States, two Senators by the President of the Senate, and two Representatives by the Speaker of the House of Representatives. The commission shall serve without compensation and shall select a chairman from among their number. For actual and necessary traveling and subsistence expenses of the commission while discharging its official duties outside the District of Columbia, $1,000; and for participation on the part of the United States in such celebration, $5,000, to be expended in the discretion of the commission; in all, fiscal year 1926, $6,000.

Mr. WARREN. Mr. President, certain amendments made by the Senate to the urgent deficiency bill remain in disagreement between the two Houses. The House agrees to the amendments of the Senate Nos. 17, 58, and 59 with amendments and insists on its disagreement to the amendments of the Senate, Nos. 27 and 28. The Senate conferees wish to concur in the first-mentioned amendments to the Senate amendments, and I make the motion that the Senate concur in the House amendments to Senate amendments Nos. 17, 58, and 59.

Mr. ROBINSON of Arkansas. What would be the effect of the action on the part of the Senate suggested by the Senator from Wyoming?

Mr. WARREN. I will state in reply to the inquiry of the Senator from Arkansas that amendment 17 relates merely to a small matter proposing to give legal power to the Comptroller General to settle a claim amounting to but $3,000 where the money has already been obligated.

Amendments 58 and 59 relate to two expositions, one being the exposition at Philadelphia, Pa., and the other at Boston, Mass. There is a change in language making the phraseology plainer. The appropriation in reference to the Sesquicentennial Exposition in Philadelphia is not changed in amount. As for the exposition in Boston, it is proposed to reduce the appropriation from $12,500 to $6,000. Those are the amendments proposed by the House conferees to the Senate amendments, in which I move that the Senate concur.

Mr. ROBINSON of Arkansas. The Senator from Wyoming, as I understand, moves to concur in the House amendments to the Senate amendments as to those items?

Mr. WARREN. I move to concur in the House amendments to the Senate amendments.

The VICE PRESIDENT. The question is on the motion of the Senator from Wyoming to concur in the amendments of the House to the amendments of the Senate Nos. 17, 58, and 59.

The motion was agreed to.

Mr. WARREN. Mr. President, as to amendments 27 and 28, they relate to two bridges. One of those bridges is to be near

Lee Ferry, in Arizona, and it is proposed to appropriate $100,000 for its construction, and that that amount be charged up to the funds of the Navajo Indians.

The other bridge is to be located near Bloomfield, N. Mex., and to be built across the San Juan River. The bill carries an appropriation of $6,620 for that purpose.

On the floor of the Senate those appropriations were challenged while the bill was being considered here. There was then not time to look up the statutes relating to the matter to ascertain whether the law authorized the appropriations as recommended, and there were many Senators who opposed charging the appropriations to the Indians on the ground that the Navajos had only $116,000 in the Treasury to their credit, and if this expense for the construction of these bridges were charged to them it would nearly exhaust their funds. The proposition, therefore, to charge the expenditure to the Indian funds was rejected.

I have found, however, in the meantime, that there are two laws which were passed in January, 1925, in which it is specifically provided that these bridges shall be built and that the expenditures for that purpose shall be reimbursable from the Indian funds. So the action we should take and which I now propose is that the Senate recede from amendments Nos. 27 and 28.

The VICE PRESIDENT. The Senator from Wyoming moves that the Senate recede from its amendments Nos. 27 and 28.

Mr. OVERMAN. Should the motion of the Senator from Wyoming be agreed to, I understand it will leave the provisions as they came to us from the House of Representatives?

Mr. WARREN. The Senate amended the bill by eliminating the provisions that the expenditures for the bridges should be reimbursable from the Indian funds; but if my motion be agreed to, and the Senate recede from those amendments, we shall restore the language of the bill as it originally came from the House of Representatives.

Mr. OVERMAN. When the bill was before the Senate, I made the point of order against the Senate committee amendments.

Mr. ROBINSON of Arkansas. As the language will remain, should the motion of the Senator from Wyoming be agreed to, the cost of the construction of the bridges will be reimbursable from the Indian funds?

Mr. WARREN. The cost of construction will be borne by the Indians under the law.

Mr. BRATTON. Mr. President, one of these bridges, the one involving the expenditure of $6,620, is located in New Mexico. The other, located in the State of Arizona, involves an expenditure of $100,000, making a total expenditure of $106,620 at this time. This policy of appropriating money from the Treasury and making it reimbursable from the tribal funds of the Navajo Indians is not a new thing in the Congress, and consequently it is not altogether proper to confine our consideration to the two items which we now have before us. This practice has gone on for years past, and up to date large sums of money have been appropriated and expended, with provision that the Treasury shall be reimbursed from the tribal funds of the Navajo Indians.

The Indians are opposed to this policy. At their tribal council held in July of last year they registered a unanimous protest against the construction of both of these bridges and transmitted that protest to the Commissioner of Indian Affairs. What the Indians want and what they need are teams and wagons, farming implements, dairy herds, and things of that character that can and will facilitate our bringing them into useful citizenship.

The proposed bridges are primarily for the use of the whites and are secondarily for the use of the Indians. The Bloomfield bridge is located in my State, some 16 miles away from the Indian reservation. The Lee Ferry bridge does connect at one end with the reservation, the other end being upon the opposite side of the river, reaching privately owned land. It is designed to form a part of a great arterial highway for the use of tourists; and, in my judgment, based upon a fairly intimate knowledge of conditions there, it is a misnomer and a camouflage to say that this bridge and its use will be primarily for the Indians. It is, as a matter of fact, for the whites; and the Indians are opposed to a continuation of this policy, which has already progressed to such a point that, indulging even the widest and the brightest hopes in connection with their development of oil and other mineral resources upon their reservation, it will take the Nevajo Indians a long term of years to repay what has already been appropriated upon a reimbursable basis from their funds. A continuation at this time of this policy on the part of the Government over the protest of the Indians, in my judgment, can not successfully be defended upon this floor or in any other forum.

Mr. OVERMAN. Mr. President, may I ask the Senator a question?

Mr. BRATTON. I yield.

Mr. OVERMAN. Mr. President, I have no interest in these matters except to follow the law. If the Senator desires to relieve the condition of which he complains and to change the policy which has been inaugurated, all he has got to do is to introduce and secure the passage of a bill to amend the existing law in this regard. We are, however, face to face with that law, and what are we going to do about it? As I have said, all the Senator will have to do is to secure such an amendment of the law that the money for purposes proposed shall not be reimbursable from the tribal funds. That, however, is the law—I am not talking about this appropriation bill but of the law—and that law says such expenditures shall be reimbursable out of the tribal funds. I am bound as a member of the Committee on Appropriations to see that the law is obeyed so far as I can. Therefore, I suggest to the Senator from New Mexico and to the Senator from Arizona also, that it is quite an easy matter to introduce a bill to amend the existing law.

Mr. BRATTON. Mr. President, answering the distinguished Senator from North Carolina, when that situation is reached I shall pursue that course, but I do not understand that the existing law to which he refers is a mandate to this body to make this appropriation at this time. Far better would it be that this appropriation be killed now and deferred until that can be done, rather than to continue the policy of appropriating sums of money, which in this case aggregate over $100,000, over the protest and contrary to the wish of a helpless people, who do not need and will not use this bridge. It is indefensible to say that this bridge is designed for their use and that they will be benefited by it, when the Indians need things that will lead them into a higher state of education, into a better understanding of citizenship, and to a more intimate knowledge of the duties and obligations that came to them under the act of Congress granting them citizenship. To compel them to continue a policy of paying for things that they do not need and do not want and to continue to force upon them a program of that kind can not be defended here or elsewhere.

I had rather see this appropriation lost altogether than to see it passed in its present unjust, inequitable, and iniquitous condition. I, therefore, hope that the Senate will stand by the position it assumed last week and require that the appropriation be made in proper form, because no question is solved until it is solved rightly. We can not afford to continue this policy, which is bottomed not upon justice, not upon equity, but upon an enforced program of iniquity and inequity toward the Indians.

Mr. WARREN. Mr. President, I wish to say to my friend from New Mexico that I agree with much of his contention, and I was favorable to the amendment which was offered in the Senate striking out the provision. I would also be favorable to a repeal of the law which provides that these expenditures shall be reimbursable from the tribal funds, and to provide another way by law to repay the funds appropriated from the Treasury of the United States; but the Senator must remember that the duties of the Appropriations Committee are to appropriate under the law and to obey the law. I know the Senator from New Mexico obeys the law and expects me to do so. We all have to obey the law.

Here is an appropriation bill carrying nearly a half billion dollars. Thousands and thousands of men are interested in it; employees and persons who have judgments and accounts of various kinds. It comprehends benefits to a great many people, so that we are hardly in position to attack the laws, and thereby hold up all of these things already too long overdue.

This is the so-called urgent deficiency bill, which should have been passed before the holidays. Usually it is passed at that time; but on account of the engrossing business before the House and Senate at the time we did not attempt this year to do anything with appropriation bills until this late day. Therefore, this so-called urgent deficiency bill has mounted very high, and we are now in this position. These two items were put in by the House, as they had a right to do under the law; and we, taking the view of the Senator, struck them out here. We discover now from an examination of the laws that were passed last year that they were authorized at that time. I did not know that those laws had passed. They were passed when I probably was engaged in some other activities. So I do not see any proper way to carry out the desire of the

Senator from New Mexico except to let the bill go through and then make any move that he may desire to make to reimburse these Indians if this money is taken away from them by the pending legislation.

I hope, therefore, that the motion will prevail.

Mr. BRATTON. Mr. President, if the Senator will yield, I did not mean in any way to criticize the committee.

Mr. WARREN. Oh, I understand that; but I wanted to call attention to the situation we are in, because I assumed that the Senator—who is not one of our "ancient" Members—might not know the exact conditions.

Mr. BRATTON. Mr. President, I desire to read into the RECORD part of a letter written to me by the Office of Indian Affairs, signed by Commissioner Burke, which contains an excerpt from the proceedings had at the tribal council of these Indians on July 7 of last year. Mr. Hagerman, the director of Indian affairs in New Mexico, was presiding.

Mr. HAGERMAN. All right; that is settled. Now what do they want to talk about?

J. C. MORGAN (Walker translating). They would like to recommend to the Government that the money they spend * * * that when Congress appropriates, they would like to have Congress appropriate for the benefit of the tribe. They do not want it for the benefit of some other people. They want it for the benefit of the Navajo Tribe.

Mr. HAGERMAN. Well, that goes without saying.

Mr. MORGAN (Walker interpreting). What we mean is that when Congress appropriates money, like they did down here for the bridge at Lee Ferry, they do not want that Congress appropriate this money for the bridges. * * *

CHEE DODGE—

Who is the chief among them.

CHEE DODGE (interpolating and finishing Walker's sentence for him). They object to the use of the tribal funds for such purpose as the bridge at the ferry across the Colorado.

The Commissioner of Indian Affairs undertakes to follow that by resorting to an extremely technical position, namely, saying that the matter was not formally before the council. The situation is clear; it is free from doubt; it is unmistakable; and to say that the Indians should resort to fine language or legal phraseology in drawing up a formal resolution is unthinkable. Their position is clearly recorded. They are opposed to these two bridges. They do not want to pay for them. The money is theirs. They are now citizens, and they want things that contribute to the elevation of their citizenship.

With due appreciation of the position of the committee, and without any criticism whatever, I think that we are not compelled to resort to a technical position by saying that we are required now to make the appropriation and take the money out of the Treasury simply because the act passed at the last session of Congress authorized the appropriation with the reimbursable feature. We can postpone the matter altogether. At least the money should not be appropriated in this fashion.

Mr. CAMERON. Mr. President, I am astonished that the United States Senate will permit an appropriation to go through in the deficiency bill wherein we take this sum of money from a tribe of Indians—the Navajo Indians—when they have only $116,000 in the Treasury of the United States to their credit. By this act we would take from them nearly $107,000 out of the $116,000, leaving them about $9,000 in the Treasury.

I want to ask, as one Senator of the United States, notwithstanding this law which I hold in my hand which was passed at the last session of Congress, if a law is wrong, if a law is iniquitous, why should we as United States Senators vote to dispossess a tribe of Indians who are helpless to defend themselves and take their money out of the United States Treasury and apply it to the construction of two bridges, one in Arizona and one in New Mexico?

As has been said by the able Senator from Wyoming [Mr. WARREN], the chairman of the Appropriations Committee, this is a deficiency bill, and its passage is required to meet other obligations. I admit that; but the United States Senate and the House of Representatives are not required to pass any bill in which we are going to do an injustice and take from people who are protesting against such an act—from the poor Indians out on the Navajo Reservation, who have protested to the Office of Indian Affairs—almost all the money they have in the Treasury.

I am sorry to see such a condition here. I am sorry to see the Office of Indian Affairs recommending such action as Congress is about to take. I can not understand wherein the Congress of the United States has any right whatsoever to take out of the United States Treasury money that has been deposited there for the benefit of a tribe of Indians.

I want to say to the Senate that I have lived near the Navajo Indian Reservation and on the reservation; I have traded with the Navajos, and I know their circumstances; and I know that the Government has never been very helpful to them. I want to say further that when Congress insists upon taking away from them the little money they have in the Treasury I can not think of anything that could be worse.

These Indians are justly entitled to their money in the Treasury; and these bridges, when constructed, should not be constructed from the Indian funds in any way, shape, form, or manner, because the Indians do not use the Lee Ferry Bridge and never have been in that section of the country. They do not even use the ferry. I do not know as much about the New Mexico situation; but the able Senator from New Mexico [Mr. BRATTON] has stated his case, and stated it rightly, justly, and fairly.

I say to you Senators who represent the various States of the Union in the United States Senate that this bill had better go over a week, if necessary. The Senator from Wyoming has said we can pass a law reimbursing these Indians for this amount of money. Let us let this bill go over and pass a law of that kind and amend the existing law so that the Indians will not have to pay this large amount of money.

I tell you right now that if this money is taken out of the Treasury under this bill that is now pending in Congress, the Indians will never get it back. I know how hard it is to get money out of the United States Treasury. Senators talk about a law. We have one for building the Coolidge (San Carlos) Dam. We were authorized by law two years ago to appropriate $5,500,000 for the construction of the Coolidge Dam for the Pima Indians in Arizona. The Budget recommended this year that $450,000 be put in the Interior Department appropriation bill for that purpose. When the bill came over from the House the appropriation was not in the bill.

I want to say, and I mean it, that it will be the most unjust act of Congress if we allow this bill to pass as it now stands and take this money away from the Indians. I want to say further that I hope the Senate will insist on its amendments, and send the bill back to the conference committee, and that they will hold it there until such time as we can amend this law and rectify this great injustice. That will be the just and fair way to do.

Let us not do something because we are white men, and the poor Indians on the reservation are helpless, with no one here to represent them, and the bureau that should be looking out for them and should be guarding the money they have in the Treasury recommending that this sum be taken from their tribal fund to construct a bridge which they will not use. I say it is outrageous; it is dishonest, if I may go that far. I hope the Senate of the United States will stand up to-day and vote to send back this bill to conference, where it belongs, and then let us rectify the wrong that has already been done by the passage of these acts that lie on my desk.

I ask unanimous consent to have the two acts to which I refer printed as part of my remarks.

The VICE PRESIDENT. Without objection, it will be so ordered.

The matter referred to is as follows:

[Public—No. 350—68th Congress]

An act [S. 1665] to provide for the payment of one-half the cost of the construction of a bridge across the San Juan River, N. Mex.

Be it enacted, etc., That there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $6,620, or so much thereof as may be necessary, to defray one-half the cost of a bridge across the San Juan River near Bloomfield, N. Mex., under rules and regulations to be prescribed by the Secretary of the Interior, who shall also approve the plans and specifications for said bridge and to be reimbursable to the United States from any funds now or hereafter placed in the Treasury to the credit of the Navajo Indians, to remain a charge and lien upon the funds of such Indians until paid: *Provided*, That the State of New Mexico or the county of San Juan shall contribute the remainder of the cost of said bridge, the obligation of the Government hereunder to be limited to the above sum, but in no event to exceed one-half the cost of the bridge.

Approved, January 30, 1925.

[Public—No. 482—68th Congress]

An act [H. R. 4114] authorizing the construction of a bridge across the Colorado River near Lee Ferry, Ariz.

Be it enacted, etc., That there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, not to exceed the sum of $100,000, to be expended under the direction of the Secretary of the Interior, for the construction of a bridge and approaches thereto across the Colorado River at a site about 6

miles below Lee Ferry, Ariz., to be available until expended, and to be reimbursable to the United States from any funds now or hereafter placed in the Treasury to the credit of the Indians of the Navajo Indian Reservation, to remain a charge and lien upon the funds of such Indians until paid: *Provided*, That no part of the appropriations herein authorized shall be expended until the Secretary of the Interior shall have obtained from the proper authorities of the State of Arizona satisfactory guaranties of the payment by said State of one-half of the cost of said bridge, and that the proper authorities of said State assume full responsibility for and will at all times maintain and repair said bridge and approaches thereto.

Approved, February 26, 1925.

Mr. TRAMMELL. Mr. President, will the Senator yield for a question?

The VICE PRESIDENT. Does the Senator from Arizona yield to the Senator from Florida?

Mr. CAMERON. Certainly.

Mr. TRAMMELL. Just as a matter of information, I desire to know if this bridge is to be constructed on the Indian reservation.

Mr. CAMERON. Only one end is on the Navajo Indian Reservation.

Mr. TRAMMELL. A further matter of information: Does it contribute at all to the value of the property belonging to the Indians?

Mr. CAMERON. Not at all.

Mr. TRAMMELL. It does not?

Mr. CAMERON. No, sir. It is on the side of the reservation—the Lee Ferry bridge, for which $100,000 is appropriated. I doubt if one Indian goes across the river in a year.

Mr. TRAMMELL. But have the Indians profited where the bridge is to be constructed?

Mr. CAMERON. They have not. I will say to the Senator that this is a canyon country.

Mr. TRAMMELL. The construction of the bridge will not add to the value of the property?

Mr. CAMERON. Not at all.

Mr. HARRELD. Mr. President, this bill was pending before the Indian Affairs Committee. I have been very careful to see that the Indian funds are not spent in the building of bridges, with one or two exceptions. I do not remember the details about this bill at the time it was favorably recommended for passage, but here is what the report shows:

A letter was produced, written by Mr. Stephen T. Mather, Director of the National Park Service, to Congressman HAYDEN, in which he said:

At the present time people from that portion of Arizona north of the Colorado River, known as The Strip, and visitors to the Zion National Park, in order to reach by a safe road the greater portion of Arizona, including the major portion of the Grand Canyon National Park, must make a long detour through California and Nevada, or a still longer detour through Colorado and New Mexico. A road crossing the Colorado at Lee Ferry seems to be the only feasible route connecting the strip country and the rest of the State and would shorten the present distance between the Grand Canyon and Zion National Parks to approximately one-third the distance it is now necessary to traverse in going from one to the other. When this road is built it will be possible to go from the north rim of the Grand Canyon to the south rim in a day.

For the past two years there have been over 100,000 visitors to the Grand Canyon Park annually, the travel for 1924 exceeding that for 1923, in spite of the restrictions against the hoof-and-mouth epidemic, and this travel will continue to grow from year to year. When the two rims are joined by a good road and bridge a still further increase will undoubtedly follow. It will be hard to find any road in the United States that will offer to the traveler so many diversified scenic features, and these features should be made accessible as soon as possible.

Even more important, from the point of view of the State, is the fact that residents of that section north of the Colorado River will have direct access to other parts of the State. The development of the area north of the Colorado River should not and can not be delayed much longer, and such a road would do more to develop that section than any other one thing.

Not alone would residents of Arizona be benefited by the opportunity to reach easily any portion of the State, but the entire State would benefit from the stream of tourist travel that now, after visiting the wonderful Zion and southern Utah country and the north rim of the Grand Canyon, turns back through Utah and on to California from there. Last year 8,400 people visited Zion Park and nearly 4,000 went to the north rim, and each year the numbers increase. If easy access were afforded visitors to Zion and the north rim to cross over to the south rim, most of them, instead of retracing their way, would continue on to southern Arizona on their way to the coast.

I believe that the importance of a connecting road between the strip section of Arizona and the remainder of the State can not be too strongly emphasized. It would be a boon to the State of Arizona, as well as to the traveling public. I know that from the standpoint of the national parks it is vitally important.

Sincerely yours,

STEPHEN T. MATHER, *Director.*

Hon. CARL HAYDEN,
House of Representatives.

There was also produced before the committee a letter signed by the Secretary of the Interior, Mr. Hubert Work, which I want to read. The letter was addressed to Mr. Snyder, chairman of the House Committee on Indian Affairs, dated January 15, 1924, and reads:

Reference is had to your letter of December 24, transmitting for report, among others, H. R. 4114, authorizing the appropriation of $100,000 to be expended under the direction of the Secretary of the Interior for the construction of a bridge and approaches thereto across the Colorado River at a site 6 miles below Lee Ferry, Ariz., to be reimbursed from any funds to the credit of the Indians of the Western Navajo Reservation in that State.

The matter of the construction of this bridge has been under consideration for some time, and thorough investigations have been made of all its phases by representatives of the Indian Service and by Col. Herbert Deakyne, Corps of Engineers, United States Army. A copy of Colonel Deakyne's report, which goes into the technical aspects of the matter in some detail, is inclosed herewith.

The cost of the construction of the proposed bridge has been placed at approximately $200,000, and the local representative of the Indian Service has recommended that that service bear half of the cost, which would seem to be an equitable division thereof. The proposed bridge will connect the Western Navajo Indian Reservation with the public domain on the west of the Colorado River and will furnish an important and permanent outlet for the Indians of that reservation, facilitating their communication with the whites, and assisting them in their progress toward a more advanced civilization. The benefit which will accrue to the white persons residing in that vicinity and to the general traveling public will be great and will probably be equal to the benefit which will be derived by the Indians. This bridge will make at all times the only possible north and south route between the Salt Lake Railway on the west and the road north from Gallup, N. Mex., on the east. An immense country lies between this railway and the town of Gallup, and the proposed bridge will be an absolute necessity to the proper development of that section.

In view of the fact that the Indians of the Western Navajo Reservation will derive great benefit from the erection of the proposed bridge, estimated to be equal to the benefit which will be derived by the white settlers, it would appear reasonable that the $100,000 which it is proposed to appropriate from public funds for the payment of half of the cost of construction be made reimbursable to the United States from any funds now or hereafter placed to the credit of such Indians and to remain a charge upon the lands and funds of such Indians until paid.

It is recommended that H. R. 4114 receive the favorable consideration of your committee and of the Congress.

Very truly yours,

HUBERT WORK, *Secretary.*

That is the evidence the committee has before it.

Mr. WHEELER. Mr. President, the chairman of the Committee on Indian Affairs of the Senate is, in my judgment, one of the fairest men who has been chairman of that committee for a long period of time. I know he is always interested in attempting to protect the Indians of this country. But I want to say this, that I think the time has come when we ought to call a halt on appropriating the money of the Indians of this country for the purpose of building bridges, and for the benefit of the white men of the country.

A good many years ago, in some of the instances back as far as 1851 and 1855, the United States of America entered into treaties by which they got the Indians of this country to give up valuable rights which they possessed in consideration of the fact that the Indians would subject themselves to the guardianship of the United States.

Since that time we have established here in Washington a bureau, which has supposedly been for the protection of the Indians of the country. Yet I venture to say that an analysis of the legislation which has been passed by the Congress of the United States of America, on the recommendation of the Bureau of Indian Affairs, has done nothing but rob these Indians time and time again. The Congress of the United States has violated in many instances every provision of these Indian treaties, and has treated them just exactly as the Kaiser treated a treaty when he said it was a mere scrap of paper.

Why have we done that? It is because of the fact that the Indians are helpless, because of the fact that numerically they are not strong. We have taken their land, we have turned it over to the whites, we have appropriated their money, and we have treated them in a shameful manner. Instead of the Bureau of Indian Affairs seeing that the Indians were protected, they have been doing just the opposite.

Just recently the Indians in Montana from the various reservations have come to Washington to petition the Congress of the United States to give them an opportunity to go into court to sue the Government by reason of violations of their treaty rights. What has been the result? The position of the Bureau of Indian Affairs was that they did not want to give the Indians a chance to go into court at all. They said the law was against them; that they were not entitled to anything; as a matter of fact, setting themselves up as a court and deciding both the facts and the law. All the Indians have asked for is an opportunity to go into the white man's courts and ask that their claims be adjusted in those courts.

Next, we have the department saying that they can not permit to be passed measures giving the Indians the right to go into court, because it would interfere with the economy program of the administration. Think of it! We are to deny the Indians their right to go into court and sue for something that is justly due them, or at least what they think is justly due them, not in their own courts, but the courts of the United States, and we are to deny them on the ground that it might interfere with the economy program of the administration.

I do not know the facts in this particular case under discussion, but I am willing to take the word of the Senator from Arizona when he says that what is proposed would not be of any benefit to the Indians, and that they are protesting against it. I say that it would be a shame for Congress to appropriate money which belongs to the Indians over their protest. Would we do it with any other class of people? Would we appropriate money in the hands of this Government if it belonged to England and use it for any purpose whatsoever?

Mr. HARRELD. Mr. President——

The VICE PRESIDENT. Does the Senator from Montana yield to the Senator from Oklahoma?

Mr. WHEELER. Certainly.

Mr. HARRELD. I presume the Senator will admit that there are occasions where the Indian property can be very materially improved, and the value increased, by expenditures for the building of bridges, or for any other sort of improvements. I do not suppose the Senator means to say there never is a case of that kind?

Mr. WHEELER. Not at all. I think there are cases where the Indians would want their money appropriated, because it would be for their benefit, but I do say that when they come to Congress and say that a proposed expenditure is not for their benefit, that they do not want the money expended, that it is not going to do their property any good, and that we are expending it for the white men, we ought to be ashamed of ourselves to do it, and it should not be done. I am glad to see the Senator from Arizona trying to protect the small minority, these Indians, down in his State, and to see the Senator from New Mexico trying to protect the Indians in his State. Time and time again we have used the Indian's money for things it should not have been used for, and it is time to call a halt.

I repeat I am not familiar with the facts of this case, and I am aware that the failure to pass this law might place us temporarily in an embarrassing position. I do say, however, that it will be much better to send this bill back and have it delayed until such time as we could pass a bill through Congress to relieve the situation. There is no excuse, in my judgment, for taking the money.

Mr. HARRELD. Mr. President, the Senator from Montana states that he believes the Indian tribes ought to be allowed to go into the white men's courts for the purpose of determining the justness of their claims against the Government. He is a member of the Committee on Indian Affairs himself, and I am sure that he will agree that within the last two years the policy has been adopted by the Senate committee, and by the Senate itself, to allow these tribes to go into the Court of Claims and present their claims, and I ask him if it is not a fact that some eight or nine different tribes have been given permission to do that very thing?

Mr. WHEELER. I am very glad to say that that is so, and that it has been largely due, in my judgment, to the good will toward the Indians shown by the distinguished Senator from Oklahoma, the chairman of that committee, that those bills were reported out of the committee. But I do say that in almost every instance it has been over the protest of the Commissioner of Indian Affairs. I had occasion myself, before I came to this body, to come to Washington and interview the Commissioner of Indian Affairs. He told me at that time that he was opposed to the Indians going into court on that occasion. I know, and the Senator knows, that the commissioner has used the argument that he did not want to see bills passed by Congress unless they conformed to the particular kind of a bill he wanted to have passed, which, if it were enacted, would limit the Indians so that they would not be able to go into court, in my judgment, and recover all they ought to recover, and it would permit a Government attorney to raise technical objections against the rights of the Indians.

Mr. HARRELD. The policy does exist of giving these Indians a hearing in court in matters of that kind.

Mr. WHEELER. The policy does not exist in the Bureau of Indian Affairs.

Mr. HARRELD. It is the policy of Congress.

Mr. WHEELER. The policy does exist in the Committee on Indian Affairs, of which the distinguished senior Senator from Oklahoma is chairman, I am very glad to say.

Mr. WARREN. Mr. President, I wish to point out what the question is, and what can be done. I do not care to multiply words, but I want to help Senators out of this situation, and I want to see whether they will realize that this is an attempt to help them out, or whether there is to be a long-continued controversy.

There is the law on the statute books, as I said before, and we are called upon to appropriate under the law. As is nearly always the case, the House framed this appropriation bill. They inserted both of the provisions in controversy. The bill came to the Senate, and the chairman of the Committee on Indian Affairs and members of the committee, hearing what the parties interested felt about the matter, were inclined to help them out, desired to help them out. So we struck out those provisions altogether.

The committee did not agree to strike out one part and leave the other in. It will be remembered that there was some confusion in the Chamber at the time the matter was acted upon; the Vice President was not in the chair, and there was some question as to the motion to be voted upon. I remember that very well, because there was a great deal of confusion. But we cut those provisions out.

Then we met the conferees on the part of the House, and they said they would not agree; that they would take the matter back and see whether the House insisted upon its position; that they would take it back and let the House settle it. They went back to the House, and the House rejected the amendments to their provisions, and we now stand where we must do one of two things. We can accept the House amendment to our amendment, which will close the matter so far as this bill is concerned, and the Senators who have been so forcibly presenting this matter can initiate a movement to repeal those laws, or an injunction of some kind can be served.

But now suppose we take the other alternative, and the Senate insists on its amendments, and we ask for a further conference. The Chair would then name the conferees. We would go back and meet the gentlemen from the House, and we would be confronted immediately with the law, although thus far we have discovered the trouble ourselves, and they would immediately say, "No; we will not do it." We would work over it a few days or a few evenings until there is further disagreement, but, of course, we, representing the Senate, would finally be compelled to surrender if they stuck to it, because as old as the House itself, certainly older than any of its Members, is the line of action of conferees that if the House presents a matter to us here that is not authorized under the law and rules, we can finally force them to surrender to us, but when we add such things as this, the striking out of their language, or when we differ from them in such a way as this, in the end we must surrender as we always have done and as the RECORD will show we have done time and again.

Suppose we have the same House influence that put these sections in the bill when we go back to further conference. It will be seen that we do not make any friends by that course. We start in to delay action on the bill for days or weeks or months. We disoblige a great many people, some Senators and a great many Members of the House, and others. The very object we want to attain, to protect the Indians, is losing its friends, and we are losing our influence by making enemies instead of friends.

On the other hand, suppose that we finally get them to agree to strike out these provisions. We still have the law, and we will have to meet it at some time. Certainly Congress is not going to butt itself against the law which we ourselves have made.

On the other hand, to cover the mistake of legislation, if it be a mistake, we would then have an open field, and I am ready at any time to afford any assistance I can to Senators and to the subject. In fact, we proved that in the committee by what we did when we undertook to strike out these provisions.

That is what I consider to be the situation. If Senators want to get out of this difficulty, if they can get out of it, my judgment is that the way to do it is to introduce a new measure, which we can pass here just as quickly as possible, and which can be passed almost as quickly as this matter could take care of it, because a bill of this nature can not be held up very long. One side has to yield to the other. The very influences that put these sections in the bill are still in the House, and we have them to meet. I submit that I am proceeding in what I believe to be the best way to help Senators out of this situation. Therefore, I have moved that the Senate recede from our amendments and settle the matter and clear the decks for action. However, on the other hand, if Senators think we can accomplish anything through another conference, I am willing to ask for another conference and go back to the House with the matter, but I fear we are only getting ourselves in a worse fix than we are in now.

Mr. HARRELD. Mr. President, what would be the effect, I would like to ask the Senator from Wyoming, if we concur in the report? It would simply mean that the appropriation is made for the two bridges?

Mr. WARREN. That is correct.

Mr. HARRELD. That would not prevent any Senator from introducing a new bill to repeal what would then be a provision of the law?

Mr. WARREN. Oh, no; not at all. They can reach it in another way. All the Treasury Department usually wants is a hint that we want something not paid for a while, and the officials there will then hold up payment until some legislation is enacted or some action is taken to cover the situation.

Mr. HARRELD. Under those circumstances, I think the proper thing to do is to let the motion of the Senator from Wyoming be agreed to and then leave the matter open for action on the part of any Senator who wants to introduce a bill to repeal that section of the law.

Mr. ASHURST. Mr. President, will the Senator from Oklahoma yield?

Mr. HARRELD. Certainly.

Mr. ASHURST. The able Senator from Oklahoma is chairman of the Committee on Indian Affairs. There has been introduced and is now pending before that committee a bill proposing to repeal the reimbursable feature of the law regarding the Lee Ferry bridge. I called at the Senator's office this morning and he was kind enough to inform me that the committee's next meeting will be on Friday of this week. Am I correct?

Mr. HARRELD. The Senator is correct.

Mr. ASHURST. The Senators who have spoken, my colleague [Mr. CAMERON], the junior Senator from New Mexico [Mr. BRATTON], and the junior Senator from Montana [Mr. WHEELER], are members of the committee, and I also happen to be a member of the committee. I hope that on Friday, when the committee meets, we may be able to report out the bill proposing the repeal of the reimbursable feature of the law respecting the Lee Ferry bridge.

Mr. HARRELD. I had overlooked the fact that the bill was pending before the committee, but, since the Senator has called my attention to it, I remember that it is there. I see no reason why the motion of the Senator from Wyoming should be held up on that account, however.

Mr. WARREN. Our position is this, and I ask Senators to understand it: The House is proceeding according to law. The Senate itself was a party to the enacting of that law. If we are sent back to conference, we stand convicted of undertaking to break a law which we in part enacted, and of trying to throw the blame on the Members of the House. On the House side they are protected, because they are carrying out the law.

Mr. OVERMAN. Mr. President, I am not sure that I understand the parliamentary situation. The Senator said we ought to follow the law and ought to obey the law, but suppose the matter goes back for further conference, what would be the effect? Does not that open up every amendment that is put on the bill and the whole thing goes into conference again?

Mr. WARREN. They have that power. It is not usual, though, I will say.

Mr. OVERMAN. No; I know it is not.

Mr. WARREN. But it can be done.

Mr. OVERMAN. It can be done; and any Senator can reopen any item that has theretofore been agreed upon.

Mr. BRATTON. Mr. President, in response to the suggestion made by the able Senator from Wyoming [Mr. WARREN], I desire to say that with him and his committee I have no quarrel, but the same influences that are urging the adoption of the reimbursable feature of the two laws might well be expected to oppose the passage of a simple bill repealing the reimbursable feature, so that concurrence in the amendment and reliance upon passing a law subsequently leaves entirely out of consideration the possibility that we might not pass such a bill, and that this injustice—and I repeat with emphasis that it is an injustice to the Indians—would still be in existence and there would be no cure for it. It seems to me that the logical course to pursue would be to withhold action on the particular item covered by the motion of the Senator from Wyoming until we can pass such a bill.

Mr. WARREN. The Senator knows that can not be done. The bill now before us has to go up altogether or down altogether. It has gone too far to be held up now. We must either concur or kill the bill altogether, or send it back for further conference. Do not make any mistake about that. We are trying to get the Senator out of the place of difficulty rather than get him into further trouble.

Mr. BRATTON. I appreciate that, and I rely completely upon the sincerity of the Senator; but the difficulty that I anticipate is the passage of such a bill through the House. The question can never be solved until it is solved rightly. The Congress has pursued a wrong policy up to date. It has forced upon the Indians payment in part or in whole for things that they have not needed and do not need and do not want.

Mr. HARRELD. There are very few such instances. I recall one instance where I had a bridge-building proposition stricken out of an appropriation bill pending before the committee. But I do not think the Senator ought to make the statement that that is the policy. It is true that once in a while it happens, but I do not believe it is a general policy.

Mr. WILLIAMS. Mr. President, will the Senator from New Mexico yield to me?

Mr. BRATTON. Certainly.

Mr. WILLIAMS. My understanding is that the reimbursable amount chargeable to the Indians is over $400,000; that the Indians did not care so long as they had no money to meet the charges made against their account; but now that they have a small income derived from oil leases on these reservations, which yield to the Navajo Indians about $10,000 a month, the reimbursable features have become effective or are about to become effective. It is a sharp issue, now that money is coming into the treasury of the Indians, and they need that money for their stock and for their other uses. I submit this as the result of a very pathetic appeal made not only by the Indians themselves but by a very distinguished gentleman who is familiar with these particular Indians and has advised me fully of the facts. I trust that we will not recede from the position we have taken.

Mr. BRATTON. The distinguished Senator from Missouri, I think, has stated the situation with substantial accuracy. I think the appropriations already made must be paid now within a short time, because the Indians are beginning to realize some money. Heretofore the policy has been all theoretical. Now it becomes one of reality, and the day of payment is drawing near for the Indians and they are protesting against the policy. To be sure, they have manifested a more or less indifferent course, but simply because they had no money and did not expect the reimbursable feature ever to be carried out. I do not want to be captious about it nor to pursue a controversial policy, but I do think that we can never afford to stand by and see this appropriation made and become a reimbursable one, relying upon the passage of a bill later in the session to repeal the reimbursable feature.

Mr. WILLIAMS. Mr. President, may I ask the Senator a question?

Mr. BRATTON. Certainly.

Mr. WILLIAMS. Is it not a fact that one of the bridges is more than 16 miles from the nearest point to the reservation?

Mr. BRATTON. That is correct, and for the information of the Senator I stated that a short while ago in the course of my remarks. Supplementing that, the distinguished Senator from Arizona [Mr. ASHURST] has stated, with reference to the bridge in his State, that while one end of it touches the soil belonging to the reservation, the bridge is intended primarily for the use of the whites and that it will not accommodate the Indians at all, and that it is not intended to accommodate them. That is true of both bridge propositions.

Mr. HARRELD. If that is true, there ought to be no trouble about getting the provision repealed. It is a question now of dealing with the situation as it is before us. I do not believe

we can afford to hold up final action on the appropriation bill on account of this matter, because we have our remedy. If that is the fact, it will not be long until such a bill would pass through the Senate, because I shall make it my special business as chairman of the Committee on Indian Affairs to see that it is put through in the very shortest possible time. I think the whole committee will join in that effort. I appreciate that the Senator from New Mexico anticipates having trouble in the House, but I do not believe he will have any trouble if he is able to establish the state of facts that he has set forth here. I think there will be no trouble in getting the bill through the House under that state of facts.

But suppose we stand pat and the matter goes back and is not agreed to finally. It will only result in embarrassment, because the provision would still be in the law and it will some time have to be repealed, or else some time we will have to make an appropriation for it. I believe we ought to do as the chairman of the committee has suggested. We ought to let the motion of the Senator from Wyoming be agreed to, and then undertake to repeal the provision of the law under discussion. I will say to the Senator from New Mexico now that if the state of facts which he has set forth can be shown to the House to exist, he will have no trouble in getting his bill through the House, I am sure.

Mr. BRATTON. Mr. President, personally I am unwilling to assume the responsibility of making the concession and relying upon the passage of a bill later, because we may fail to pass the bill, and I should consider myself derelict in my duty on this floor were I to assume that responsibility and fall into that situation. I think the proposal is fundamentally wrong, is fundamentally unjust, and it should be held up until we can get relief and get it in the right way.

Mr. WARREN. The Senator from New Mexico will not have to vote for it; and so, even if it shall be carried, he will assume no responsibility.

Mr. BRATTON. I yield the floor, Mr. President.

Mr. CAMERON. Mr. President, I should like to ask the chairman of the Committee on Appropriations how much of the appropriation carried in the urgent deficiency bill is made at once available?

Mr. WARREN. Practically every dollar of it.

Mr. CAMERON. Every dollar of this tremendous deficiency appropriation?

Mr. WARREN. Yes; unless in a case where the appropriation may be purposely extended over to the early part of the fiscal year 1927; but a deficiency appropriation bill is always intended to provide for almost immediate payments.

Mr. CAMERON. Some of the appropriations I thought were available only during the new fiscal year.

Mr. WARREN. Let me say to the Senator, however, that officials not only of the Treasury Department but of other departments of the Government have during my term of service always been ready to notice what is going on in the two Houses of Congress in the way of legislation which would affect the payment of appropriations, holding the payments back at times and at other times waiting, very much against the wishes of the people who wanted the money expended. The officials are always in favor, where disputes arise, of letting the matters be settled outside before the money can be obtained from the Treasury.

Mr. CAMERON. Mr. President, I appreciate what the Senator from Wyoming has stated, but at the same time I do not feel that I can be a party to an unjust measure. I feel that this is unjust. It is very nice for the chairman of the Committee on Indian Affairs, the distinguished Senator from Oklahoma [Mr. HARRELD], to tell us how easy it will be to repeal an act of Congress. It will not be easier for us to repeal the existing act than it is for us to stand here now and oppose the proposition which is now confronting us, which is wrong. Why should we not protect these citizens now? I appeal to the Senator from Wyoming. He has been very courteous in explaining the matter, and I have been glad to listen to him, but I say that if we let this go by to-day we are not going to get the law repealed at this session of Congress; neither will the Indians be reimbursed for the money which will be taken away from them. I hope that the Senate will vote to send the proposition back to conference. If we can repeal the law, let us get busy and do it, but I hope the Senate will not at this time sustain the motion of the chairman of the committee.

Mr. WARREN. Mr. President, I ask for the yeas and nays upon my motion that the Senate recede from its amendments Nos. 27 and 28.

The VICE PRESIDENT. The question is on the motion of the Senator from Wyoming that the Senate recede from its amendments Nos. 27 and 28, on which the yeas and nays are demanded.

Mr. WALSH. Mr. President, the attention of the junior Senator from Utah [Mr. KING] was called a day or so ago to an amendment incorporated in this bill. That amendment, which was made in the Senate, has apparently been agreed to by the House, and it was the purpose of the Senator from Utah to draw the attention of the Senate to it when the conference report came before it for consideration. The Senator from Utah, however, has been taken ill, as have many of the Senators, and is unable to be here to-day. I have been requested to lay the matter before the Senate in his behalf.

Mr. JONES of Washington. Might I suggest to the Senator from Montana that my understanding is that the conference report on this bill has, in fact, been agreed to by the Senate? The proposition now is with reference to the two amendments that were in disagreement coming over from the other House, and the question is not on agreeing to the conference report, which, in fact, was agreed to a day or two ago.

Mr. WALSH. So I understand. The amendment referred to, Mr. President, will be found on pages 58 and 59 of the bill and provides for the payment of judgments of the Court of Claims referred to in Senate Documents Numbered 52 and 54.

Mr. WARREN. I think I can relieve the apprehensions of the Senator from Montana regarding that matter. What is the name of the firm concerned in the judgment of the Court of Claims to which the Senator from Montana refers?

Mr. WALSH. It is the C. Kenyon Co. (Inc.).

Mr. WARREN. That is the name of the firm which I have in mind. The Senator from Utah, doing his duty as he always does, called me up late one evening in the committee room and told me he had been informed that this claim was a fraud, and so on.

I asked him to let me know about the matter in the morning. So in the morning, when the conferees were together, I sent for the Senator and he appeared before the conferees. He there made a statement, telling where he got the information. He obtained the information from the same person who has made complaints against very many matters of late, all of which have turned against his testimony. The conferees on the part of the House of Representatives said they had taken particular pains to look the matter up. Whereupon, before going any further I called up the Court of Claims and secured a statement from the clerk of the Court of Claims as to the procedure and all about it. We then consulted one of the Assistant Attorneys General of the Department of Justice, who had had his attention called to it, and it was pronounced all right. The Senator from Utah [Mr. KING] said he was satisfied about it, and withdrew.

Mr. WALSH. Mr. President, I wish to lay the situation before the Senate at this time, as a mere matter of record. I understand that in all probability the damage has been done and that it is perhaps past repair, but the situation is this——

Mr. WARREN. Mr. President, if the Senator will allow me one more word, it seems that the claim had to do with a consignment of raincoats. There were accounts back and forth between the Government and the company, and there was one matter which probably the informant of the Senator from Utah did not understand which later in the consideration of the matter came up and was taken into account. I do not give the figures because I do not recall them at this time, but the adjustment of the claim seemed to be satisfactory to all parties including those representing the Government.

Mr. WALSH. I have a brief statement of the situation here which I desire to present for the RECORD. This implies no criticism whatever of the Committee on Appropriations. That committee had before them a judgment in favor of the claimant which had been rendered by the Court of Claims, and they had every reason to suppose that the judgment was all right and ought to be paid. I desire, however, to call attention to certain facts from the record in the case which indicates that it is exceedingly doubtful, to say the least, whether the judgment was appropriately rendered, and in my opinion, the matter ought to have had more careful investigation.

The claim, Mr. President, is for raincoats furnished during the war. The claim was disallowed by the War Department after very careful consideration. It was referred to the Department of Justice; it was examined into by the Department of Justice, where it was disclosed that after the company had presented a claim for raincoats and that had been adjusted and, as my recollection is, the claim had been paid, the company submitted the additional claim. It is contended, as I understand, that the claim for this particular consignment of raincoats was embraced in the prior claim and had actually been paid for; that this particular claim was fraudulent; and

that the company had actually been overpaid upon the preceding order.

Mr. WILLIAMS. Mr. President, may I make an inquiry of the Senator?

Mr. WALSH. The facts are disclosed, if the Senator will permit me, in a letter addressed to the present Senator from West Virginia [Mr. GOFF] when he was then Assistant Attorney General and Mr. Robert H. Lovett, who was Assistant Attorney General in charge of matters before the Court of Claims, by Mr. Brewer, whose name is not unfamiliar to Members of the Senate and of the House; but it is concurred in by another Special Assistant Attorney General, James R. Sheppard, who was detailed by the War Department to look into all of these matters.

Mr. WARREN. Mr. President, will the Senator allow me to ask him a question.

Mr. WALSH. Yes.

Mr. WARREN. Is this Mr. Brewer the same man who created what might be called a disturbance in the Bureau of Engraving and Printing some years ago and caused the discharge of men whom the Senator from Montana and other Senators have voted back in their places?

Mr. WALSH. I think he is the same man, but that does not affect the situation at all. The thing does not depend upon any statement made by Mr. Brewer. The facts are matters of record.

Mr. WARREN. Of course, the Senator knows that the Committee on Appropriations and the Senate itself could hardly afford to try over again cases in which the courts have rendered judgments. The judgments come to us as due. The courts investigate the claims and decide them and they come to the Congress as having been adjudicated. The number that come before the committees of Congress from year to year is so large that it is impossible for us to attempt to retry them or anything of that kind. All we can do is to secure the best information we can and act on the judgments as submitted.

Mr. WALSH. As I have said, I am not intending to offer any criticism on the Committee on Appropriations at all. They had a right to assume that the judgment was properly entered. The facts, Mr. President, however, will be disclosed in the letter to which I have referred, dated September 24, 1921, and reading as follows:

Attached hereto is the report on the proposed recovery from the C. Kenyon Co., paid by a War Department Claims Board in settlement of the raincoat contract.

This matter was formally referred to the Department of Justice by the Comptroller of the Treasury in his letter of January 19, 1921, which stated that the Auditor for the War Department had disallowed settlements for said payments in the accounts of the disbursing officer who made payment.

The comptroller also forwarded a letter of the Secretary of War, dated January 7, 1921, in which the Secretary of War stated that the action of the board which allowed the claim had been reexamined and it had been found that the settlements were not on the favorable returns cited by the board which made the awards, and that the Secretary was far from satisfied with the correctness of the awards and suggested reference to the Department of Justice to assist in determining whether the Government will be justified in instituting either criminal or civil actions against the parties concerned.

This is the action of the War Department.

Accompanying the letter of the Secretary of War was a report of the then vice chairman of the War Department Claims Board, dated December 21, 1920, in which it was stated that of $756,714.72 claimed by the Kenyon Co. only $54,231.73 was allowable, and it was probable that the claim should be further reduced by an additional $138,058.11.

That is to say, that the War Department asserted that of a claim for $756,714.72 only $54,000 in their judgment was allowable.

They continue:

When this matter was received at the Department of Justice, request was made of the Secretary of War to detail for assistance on this claim Capt. James R. Sheppard, who had handled various other raincoat claims, and was familiar with the War Department's records necessary for an intelligent handling of the claim in question. Captain Sheppard was accordingly detailed to this work under the War Department, and since the 1st of July has continued on the work as Special Assistant to the Attorney General. Captain Sheppard's report is attached hereto. The subject is a lengthy one, and much more could be written than is submitted.

So it will be observed that the objection to this claim does not rest upon the statement of Mr. Brewer at all. It rests upon the statement as a result of an investigation made by Captain Sheppard, of the Army.

The report attached is confined practically to the War Department's records and to the statements of the claimant itself, made at various times, it having submitted several claims at different times.

An examination of Captain Sheppard's attached report will show—

(a) The material claimed by the C. Kenyon Co. was not purchased for contract 1514, as claimed by them.

(b) That the material claimed to have been left over from the contract and on hand January 1, 1919, was not on hand, as claimed.

(c) That another claim made by Kenyon Co. under another contract was settled by a different War Department claims board, and that every single item used by the C. Kenyon Co. to make up the amount in the other claim was included in the claim in question.

(d) That the claim herein was submitted after settlement of the other claim referred to in (c) was made.

(e) That the material, or at least a large part of it, was used by the C. Kenyon Co. on other contracts and was paid for by the Government in full before any claims were filed by the C. Kenyon Co.

(f) That the claims board who made the awards on the contract in question was composed of ex-Maj. Joseph C. Byron, ex-Capt. E. R. Estes, ex-Maj. L. W. Holder, Mr. H. L. Roberts, and Mr. E. L. Weber, deceased (the first two members named are now connected with the United States Harness Co.; the third is an attorney who examined the contract and secured the bond for the harness company.

(g) That when Major Byron and Mr. Holder were seen by Captain Sheppard in his dual capacity as member of the War Claims Board and representative of the Department of Justice they were evasive in their answers and conflicting in their statements, yet forthwith furnished information to the attorney for the claimant company.

After disallowance of payment by the disbursing officer it is understood that the War Department held up payment on certain contracts which it had with the C. Kenyon Co., and the amount of money which would otherwise be due is about $350,000. It is recommended that this money be retained by the Government, and if suit in the Court of Claims is entered for it that the Government can set up as a counterclaim the $350,000 paid for the claim in question under provision of section 172, Judicial Code, providing that any person who corruptly practices, or attempts to practice, any fraud against the United States in any part of a claim shall forfeit the whole of the claim to the Government.

CHAS. B. BREWER,
Attorney for the United States.
JAS. R. SHEPPARD, Jr.,
Special Assistant to the Attorney General.

Now, I desire to call attention to the fact—and possibly the chairman of the Committee on Appropriations was not aware of it—that when suit was commenced in the Court of Claims, as shown by the printed record of the case——

Mr. OVERMAN. Mr. President, may I ask the Senator a question?

Mr. WALSH. Yes.

Mr. OVERMAN. Were these facts before the Court of Claims when they gave their judgment? Were they presented by the Government?

Mr. WALSH. Apparently not.

Mr. OVERMAN. That is a very strange thing.

Mr. WALSH. That is just the point to which I am calling attention.

Mr. OVERMAN. It is very strange that the Government did not present this matter to the Court of Claims. I am glad the Senator is bringing it out. Of course, now the matter has gone too far for us to do anything about it; but it ought to be in the RECORD, to show how things are going on in this country—that these matters are not presented on behalf of the Government to the Court of Claims, and they bring up a judgment of this kind after it has been paid.

Mr. WALSH. That is just what I was going to show—that as a matter of fact the Department of Justice declined to present the matter to the Court of Claims, and entered into a stipulation with the attorneys for the claimant as follows. I read now from the record of this case in the Court of Claims:

The total sum remaining unpaid under the foregoing contracts and purchase orders is $349,995.32, and claims therefor were found by the Auditor for the War Department or by the Comptroller General of the United States to be correctly stated and properly supported by vouchers and other necessary evidence, but were disallowed by the said accounting officers for the reason that the plaintiff was alleged to be indebted to the United States on account of an overpayment of $350,000 by Montgomery T. Legg, captain Quartermaster Corps, in June, 1920, on award No. 5003 of the War Department Claims Board, dated January 30, 1920.

The defendant, on June 17, 1925, filed in this court notice of its intention to file a counterclaim.

On October 9, 1925, Jerome Michael, director war transaction section, Department of Justice, addressed a letter to Frank J. Hogan, Esq., Colorado Building, Washington, D. C., as follows:

"Re: C. Kenyon Co. (Inc.) v. United States, No. E-285.

"I beg to advise you that this department has determined to file no counterclaim in the above action based upon the Dent Act award made to the above company in connection with contract No. 1514 for the manufacture of raincoats.

"You will please understand that this decision is confined entirely to that contract and to the award based thereon."

By stipulation of the parties filed November 4, 1925, in accordance with which these findings are made, the United States withdrew the aforesaid notice of its intention to file a counterclaim, and no counterclaim has been filed.

Mr. OVERMAN. Mr. President, does the Senator know who represented the Government in this matter?

Mr. WALSH. The Government was represented by Jerome Michael, director of the war transaction section of the Department of Justice.

Mr. OVERMAN. Is he an attorney?

Mr. WALSH. I assume so.

Mr. OVERMAN. Frank J. Hogan is the claimant's attorney, as I understand. He is an attorney here in Washington?

Mr. WALSH. Yes. So at the present time, Mr. President, we have no information at all as to whether there was or was not a good foundation for that counterclaim which the War Department insisted was a valid one against this company and ought to have been credited against its claim.

I simply want to say that at least we ought to have some explanation of why the claim asserted to be a valid claim by the War Department was not submitted to the court for adjudication in connection with this transaction.

Mr. ASHURST. Mr. President, at this juncture I ask unanimous consent to introduce a bill and have it read.

The VICE PRESIDENT. Without objection, the bill will be received and read.

The bill (S. 3282) to amend the act of February 26, 1925 (chapter 343 of the Statutes of the Sixty-eighth Congress), authorizing the construction of a bridge across the Colorado River near Lee Ferry, Ariz., was read the first time by its title and the second time at length, as follows:

Be it enacted, etc., That there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, not to exceed the sum of $100,000, to be expended under the direction of the Secretary of the Interior for the construction of a bridge and approaches thereto across the Colorado River at a site about 6 miles below Lee Ferry, Ariz., to be available until expended: *Provided*, That no part of the appropriation herein authorized shall be expended until the Secretary of the Interior shall have obtained from the proper authorities of the State of Arizona satisfactory guaranties of payment by said State of one-half of the cost of said bridge, and that the proper authorities of said State assume full responsibility for and will at all times maintain and repair said bridge and approaches thereto.

SEC. 2. No part of the sum authorized to be appropriated under this act, or which may have been appropriated under the said act which is hereby amended, shall in any way become a charge reimbursable to the United States from the funds of the Navajo Indians or from any other tribe of Indians.

The VICE PRESIDENT. The bill will be referred to the Committee on Indian Affairs.

Mr. WALSH. Mr. President, I venture to suggest to the chairman of the Committee on Appropriations that it would not be inappropriate to request the Department of Justice at least to send to the committee a statement of the reasons impelling them to withdraw the counterclaim asserted by the War Department to be a valid claim against this company.

Mr. WARREN. Mr. President, would the Senator mind addressing to me a note saying just what he would like to have me ask for? If he will do that, I will undertake to secure it.

Mr. President, I ask unanimous consent to withdraw my motion, and to make a motion that the Senate further insist upon its amendments and ask for a further conference with the House of Representatives upon the amendments of the Senate.

The VICE PRESIDENT. Is there objection to the withdrawal of the motion? The Chair hears none. The question is on the motion of the Senator from Wyoming that the Senate further insist upon its amendments numbered 27 and 28 and ask for a further conference with the House of Representatives on the amendments.

The motion was agreed to; and the Vice President appointed Mr. WARREN, Mr. CURTIS, and Mr. OVERMAN conferees on the part of the Senate at the further conference.

TAX REDUCTION—CONFERENCE REPORT

Mr. SMOOT. Mr. President, I ask that the conference report on H. R. 1, the revenue bill, be laid before the Senate at this time.

Mr. DILL. Mr. President, is it proposed to take up the conference report?

Mr. SMOOT. Yes.

Mr. DILL. I think there ought to be a quorum here if it is to be taken up at this time. I suggest the absence of a quorum.

Mr. SMOOT. Before the report is taken up?

Mr. DILL. I think there ought to be a quorum here before anything is done about it.

The VICE PRESIDENT. The Secretary will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Ashurst	Fletcher	Mayfield	Shipstead
Bayard	Frazier	Means	Shortridge
Bingham	Gerry	Metcalf	Simmons
Blease	Glass	Moses	Smith
Bratton	Goff	Neely	Smoot
Brookhart	Gooding	Norbeck	Stanfield
Broussard	Hale	Nye	Stephens
Bruce	Harreld	Oddie	Swanson
Butler	Harris	Overman	Trammell
Cameron	Harrison	Pepper	Tyson
Capper	Heflin	Phipps	Wadsworth
Couzens	Howell	Pine	Walsh
Cummins	Jones, Wash.	Pittman	Warren
Curtis	Kendrick	Ransdell	Watson
Dale	Keyes	Reed, Pa.	Weller
Dill	La Follette	Robinson, Ark.	Wheeler
Ernst	McKellar	Robinson, Ind.	Williams
Ferris	McKinley	Sackett	Willis
Fess	McNary	Sheppard	

Mr. JONES of Washington. I desire to announce that the senior Senator from Connecticut [Mr. MCLEAN] is unavoidably absent, and that the junior Senator from Illinois [Mr. DENEEN], and the senior Senator from California [Mr. JOHNSON] are detained from the Senate by illness.

Mr. PHIPPS. I desire to announce that the junior Senator from New York [Mr. COPELAND] is in attendance on a hearing before the Committee on Education and Labor.

Mr. LA FOLLETTE. The senior Senator from Nebraska [Mr. NORRIS] is detained at his home on account of illness. I ask that this announcement may stand for the day.

Mr. WHEELER. I desire to announce that the junior Senator from New Jersey [Mr. EDWARDS] is detained at home by illness.

Mr. HARRISON. The junior Senator from Utah [Mr. KING] is detained from the Senate on account of illness.

The VICE PRESIDENT. Seventy-five Senators having answered to their names, there is a quorum present.

The Senator from Utah asks unanimous consent for the immediate consideration of the conference report on the tax bill. Is there objection?

There being no objection, the Senate proceeded to consider the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 1) to reduce and equalize taxation, to provide revenue, and for other purposes.

[For report, see House proceedings of Tuesday last, RECORD, page 4401.]

Mr. SMOOT. I desire to make a brief statement.

Mr. FLETCHER. I have no objection to taking the report up, but I want to submit some observations on it.

Mr. SMOOT. Certainly; the Senator will have that right.

Mr. WALSH. How much time does the Senator think will be occupied in the consideration of the report?

Mr. SMOOT. I myself will not take over 15 minutes; but I can not say who else desires to speak. One or two Senators have already told me that they have short speeches to make. I can not tell the Senator how long it will take.

Mr. WALSH. At 2 o'clock the unfinished business will automatically come before the Senate, and it is quite obvious the consideration of the conference report can not be concluded before that time. I realize that the conference report on the revenue bill, which the Senator is calling up, will have priority of consideration. I accordingly ask unanimous consent that at 2 o'clock the unfinished business be temporarily laid aside.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

Mr. SMOOT. Mr. President, I wish to make a brief statement on the action of the conferees on the revenue bill, H. R. 1.

There were 206 amendments to the bill as it went into conference, after action by the Senate. The House conferees agreed to 145 of those amendments; the Senate conferees receded on 19 of the amendments and the conferees of the Senate and the House agreed with amendments on 42 of the amendments so adopted by the Senate.

The bill as acted upon by the Senate carried a loss in revenue for the calendar year 1926 of $456,261,000.

As the bill is reported back to the Senate and as passed by the House, the loss in revenue for 1926 will be $387,811,000, or about $69,000,000 less than the amount under the bill as it passed the Senate, and about $60,000,000 more than under the bill as it first passed the House.

The reduction now contemplated is $35,000,000 in excess of that made by the bill as reported out of the Finance Committee, and although the reduction has been increased substantially the conferees are relying upon the expectation of continued prosperity for the country, being an assurance for the Treasury of an ample revenue to meet the Budget requirements and such necessary appropriations as the present Congress may approve.

Even though the margin of safety may have been slightly exceeded in the contemplated reduction, I am confident that the continued administration of the Government along lines of sound economy, together with the expected prosperity in business, will produce under the new law sufficient revenue to safeguard the proper conduct of the people's business.

An explanation of the action by the conferees is set forth in detail in the conference report which has been placed upon the desk of each Senator. I will not take the time to repeat what is contained therein.

The two main points of discussion in conference were the amount of the reduction in taxes and the action to be taken on the estate tax. With reference to both matters the conferees were obliged to agree in a spirit of compromise in order that this important legislation might be enacted into law within ample time to permit the public to file their returns and to fully benefit by the reduction.

In that spirit the Senate conferees were obliged to yield on the repeal of the automobile tax, the tax on admissions and dues, and the stamp tax on passage tickets, but were able to maintain many other of the Senate amendments. The conferees agreed to the repeal of the capital-stock tax and in substance approved the increase in the corporation tax, but the rate to be applied against 1925 income was fixed at 13 per cent instead of at 13½ per cent, the latter rate to be applied after 1925. The conferees also agreed on the exemption of admissions where the charge is 75 cents and under.

With reference to the estate tax, the wide difference in action by the two bodies of Congress, together with sharp insistence on the part of each group of conferees for the maintenance of the position taken by their respective bodies, made inevitable that no agreement could be reached except by way of a compromise. The final result of the continued discussion was, with reference to the future, to raise the exemption from $50,000 to $100,000, to adopt the rates stated in the House bill, to approve the 80 per cent credit for taxes paid to the States, and to make the rates of the 1921 law apply to the estates of decedents who died while the 1924 law was effective, with the application of the 25 per cent credit to such cases.

The recession by the Senate conferees is not as pronounced as, on first thought, it might appear to be. The repeal of the estate tax at this time would not have been effective, so far as a reduction in revenue is involved, for from four to five years. Though the repeal might have been immediate so that no tax would apply to the estates of decedents dying hereafter, the revenue collections would have continued for some years with reference to the estates of decedents who died prior to this time. That result is caused by the fact that the tax under the present law is not payable until one year after death, and that the law permits the spreading out of the payments over a period of about five years.

The estimates of receipts from the estate tax take those facts into account. For example, the estimates for the year 1926 are largely from estates where the decedent died in 1921 and 1922. So a repeal of that tax would not have affected the revenue to any marked extent for several years to come.

Notwithstanding that situation, the House conferees refused to agree to the repeal of the estate tax. Yet they supported the 80 per cent credit provision. It seemed to the Senate conferees that the only real difference of opinion between the two branches of Congress was the favoring of an 80 per cent credit as compared with a 100 per cent credit. In that situation the Senate conferees yielded upon obtaining the extension of the exemption to $100,000 and the continuation of the 1921 rates with a 25 per cent credit, through the period that the 1924 law was in operation.

The apparent effect of these provisions is to accomplish a full repeal as to all estates of less than $100,000, to greatly reduce the taxes on all estates of over $100,000, and with the application of the 80 per cent credit when utilized by the States, to bring the situation very close to a 100 per cent repeal of the law. So both branches of Congress achieved their point in controversy.

In 1924 there were 13,769 returns filed for estates, and of that number 6,452 represented gross estates of less than $100,000. The statistics are substantially the same for the year 1923. So it is apparent that the extension of the exemption to $100,000 will amount to a full repeal for at least half of the estates which annually come within the operation of the estate tax.

The surtax rates as adopted by the Senate were acceptable to the House conferees. I desire to place in the RECORD tables covering incomes up to $100,000 and showing the substantial reduction in taxes to be enjoyed by individuals under the new law, as compared with the taxes payable under the acts of 1918, 1921, and 1924 for like incomes. For the purposes of comparison, one table shows the taxes of a single person, the second table of a married person without dependents, and the third table a married person having two dependents. I ask that these tables be printed in the RECORD at the end of my remarks.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

Mr. SMOOT. A peculiar situation was met in the conference. Under all prior revenue measures the determination as to legislation has been along strictly party lines. Whichever party was in power was the one to bear the full responsibility for the measure which came out of conference. In this case the situation has been quite different. In not a single instance was any matter decided in the conference on a party basis. Each set of conferees met the other as a group in a nonpartisan undertaking; each was representing the views of its own branch of Congress. All concessions were as such groups and therein lies the full explanation for all of the recessions which the Senate conferees felt obliged to make.

I hope that the prompt action in the House will be repeated in the Senate, and that the conference report will be adopted.

The tables referred to by Mr. SMOOT are as follows:

Tax on specified incomes up to $100,000

(Married man without dependents, $20,000 earned income)

Income	Tax under act of 1918	Tax under act of 1921	Tax under act of 1924	Tax under act of 1926
$3,000	$60.00	$20.00	$7.50	(1)
$4,000	120.00	60.00	22.50	$5.63
$5,000	180.00	100.00	37.50	16.88
$6,000	250.00	160.00	52.50	28.13
$7,000	390.00	250.00	75.00	39.38
$8,000	530.00	340.00	105.00	56.25
$9,000	680.00	430.00	135.00	78.75
$10,000	830.00	520.00	165.00	101.25
$11,000	990.00	620.00	225.00	131.25
$12,000	1,150.00	720.00	295.00	168.75
$13,000	1,320.00	830.00	365.00	213.75
$14,000	1,490.00	940.00	435.00	258.75
$15,000	1,670.00	1,060.00	515.00	311.25
$16,000	1,850.00	1,180.00	595.00	363.75
$18,000	2,230.00	1,440.00	775.00	483.75
$20,000	2,630.00	1,720.00	975.00	618.75
$22,000	3,050.00	2,040.00	1,195.00	818.75
$24,000	3,490.00	2,380.00	1,435.00	1,038.75
$26,000	3,950.00	2,740.00	1,695.00	1,278.75
$28,000	4,430.00	3,120.00	1,975.00	1,518.75
$30,000	4,930.00	3,520.00	2,275.00	1,778.75
$32,000	5,450.00	3,940.00	2,595.00	2,038.75
$34,000	5,990.00	4,400.00	2,915.00	2,318.75
$36,000	6,550.00	4,860.00	3,255.00	2,598.75
$38,000	7,130.00	5,340.00	3,615.00	2,898.75
$40,000	7,730.00	5,840.00	3,995.00	3,198.75
$45,000	9,320.00	7,180.00	4,985.00	4,008.75
$50,000	11,030.00	8,640.00	6,095.00	4,878.75
$55,000	12,870.00	10,230.00	7,325.00	5,808.75
$60,000	14,830.00	11,940.00	8,635.00	6,798.75
$70,000	19,130.00	15,740.00	11,535.00	8,968.75
$80,000	23,930.00	20,040.00	14,835.00	11,258.75
$90,000	29,230.00	24,840.00	18,495.00	13,658.75
$100,000	35,030.00	30,140.00	22,575.00	16,058.75

(1) No tax.

Tax on specified net incomes of a married person with two dependents, earned income up to $20,000

Net income	Calendar year 1918			1921 rates			1924 rates			1926 rates		
	Normal	Surtax	Total tax	Normal	Surtax	Total tax	Normal	Surtax	Total tax	Normal	Surtax	Total tax
$3,000	$36.00		$36.00									
$4,000	96.00		96.00	$28.00		$28.00	$10.50		$10.50			
$5,000	156.00		156.00	68.00		68.00	25.50		25.50	$7.88		$7.88
$6,000	216.00	$10.00	226.00	128.00		128.00	40.50		40.50	19.13		19.13
$7,000	312.00	30.00	342.00	176.00	$10.00	186.00	55.50		55.50	30.38		30.38
$8,000	432.00	50.00	482.00	256.00	20.00	276.00	81.00		81.00	41.63		41.63
$9,000	552.00	80.00	632.00	336.00	30.00	366.00	111.00		111.00	60.75		60.25
$10,000	672.00	110.00	782.00	416.00	40.00	456.00	141.00		141.00	83.25		83.25
$11,000	792.00	150.00	942.00	496.00	60.00	556.00	181.00	$10.00	191.00	105.75	$7.50	113.25
$12,000	912.00	190.00	1,102.00	576.00	80.00	656.00	235.00	20.00	255.00	128.25	15.00	143.25
$13,000	1,032.00	240.00	1,272.00	656.00	110.00	766.00	295.00	30.00	325.00	161.25	22.50	183.75
$14,000	1,152.00	290.00	1,442.00	736.00	140.00	876.00	355.00	40.00	395.00	198.75	30.00	228.75
$15,000	1,272.00	350.00	1,622.00	816.00	180.00	996.00	415.00	60.00	475.00	236.25	45.00	281.25
$16,000	1,392.00	410.00	1,802.00	896.00	220.00	1,116.00	475.00	80.00	555.00	273.75	60.00	333.75
$18,000	1,632.00	550.00	2,182.00	1,056.00	320.00	1,376.00	595.00	140.00	735.00	348.75	105.00	453.75
$20,000	1,872.00	710.00	2,582.00	1,216.00	440.00	1,656.00	715.00	220.00	935.00	423.75	165.00	588.75
$22,000	2,112.00	890.00	3,002.00	1,376.00	600.00	1,976.00	835.00	320.00	1,155.00	523.75	265.00	788.75
$24,000	2,352.00	1,090.00	3,442.00	1,536.00	780.00	2,316.00	955.00	440.00	1,395.00	623.75	385.00	1,008.75
$26,000	2,592.00	1,310.00	3,902.00	1,696.00	980.00	2,676.00	1,075.00	580.00	1,655.00	723.75	525.00	1,248.75
$28,000	2,832.00	1,550.00	4,382.00	1,856.00	1,200.00	3,056.00	1,195.00	740.00	1,935.00	823.75	665.00	1,488.75
$30,000	3,072.00	1,810.00	4,882.00	2,016.00	1,440.00	3,456.00	1,315.00	920.00	2,235.00	923.75	825.00	1,748.75
$32,000	3,312.00	2,090.00	5,402.00	2,176.00	1,700.00	3,876.00	1,435.00	1,120.00	2,555.00	1,023.75	985.00	2,008.75
$34,000	3,552.00	2,390.00	5,942.00	2,336.00	2,000.00	4,336.00	1,555.00	1,320.00	2,875.00	1,123.75	1,165.00	2,288.75
$36,000	3,792.00	2,710.00	6,502.00	2,496.00	2,300.00	4,796.00	1,675.00	1,540.00	3,215.00	1,223.75	1,345.00	2,568.75
$38,000	4,032.00	3,050.00	7,082.00	2,656.00	2,600.00	5,256.00	1,795.00	1,780.00	3,575.00	1,323.75	1,545.00	2,868.75
$40,000	4,272.00	3,410.00	7,682.00	2,816.00	2,960.00	5,776.00	1,915.00	2,040.00	3,955.00	1,423.75	1,745.00	3,168.75
$45,000	4,872.00	4,400.00	9,272.00	3,216.00	3,900.00	7,116.00	2,215.00	2,780.00	4,945.00	1,673.75	2,305.00	3,978.75
$50,000	5,472.00	5,510.00	10,982.00	3,616.00	4,960.00	8,576.00	2,515.00	3,540.00	6,055.00	1,923.75	2,925.00	4,848.75
$55,000	6,072.00	6,750.00	12,822.00	4,016.00	6,150.00	10,166.00	2,815.00	4,470.00	7,285.00	2,173.75	3,605.00	5,778.75
$60,000	6,672.00	8,110.00	14,782.00	4,416.00	7,460.00	11,876.00	3,115.00	5,480.00	8,595.00	2,423.75	4,345.00	6,768.75
$70,000	7,872.00	11,210.00	19,082.00	5,216.00	10,460.00	15,676.00	3,715.00	7,780.00	11,495.00	2,923.75	6,005.00	8,928.75
$80,000	9,072.00	14,810.00	23,882.00	6,016.00	13,960.00	19,976.00	4,315.00	10,480.00	14,795.00	3,423.75	7,805.00	11,228.75
$90,000	10,272.00	18,910.00	29,182.00	6,816.00	17,960.00	24,776.00	4,915.00	13,540.00	18,455.00	3,923.75	9,705.00	13,628.75
$100,000	11,472.00	23,510.00	34,982.00	7,616.00	22,460.00	30,076.00	5,515.00	17,020.00	22,535.00	4,423.75	11,605.00	16,028.75

Tax on specified net incomes; single person; earned net income up to $20,000

Net income	1918 rates			1921 rates			1924 rates			1926 rates		
	Normal	Surtax	Total	Normal	Surtax	Total	Normal	Surtax	Total	Normal	Surtax	Total
$3,000	$120.00		$120.00	$80.00		$80.00	$22.50		$22.50	$16.88		$16.88
$4,000	180.00		180.00	120.00		120.00	37.50		37.50	28.13		28.13
$5,000	240.00		240.00	160.00		160.00	52.50		52.50	39.38		39.38
$6,000	360.00	$10.00	370.00	240.00		240.00	75.00		75.00	56.25		56.25
$7,000	480.00	30.00	510.00	320.00	$10.00	330.00	105.00		105.00	78.75		78.75
$8,000	600.00	50.00	650.00	400.00	20.00	420.00	135.00		135.00	101.25		101.25
$9,000	720.00	80.00	800.00	480.00	30.00	510.00	165.00		165.00	123.75		123.75
$10,000	840.00	110.00	950.00	560.00	40.00	600.00	202.50		202.50	153.75		153.75
$11,000	960.00	150.00	1,110.00	640.00	60.00	700.00	262.50	$10.00	272.50	191.25	$7.50	198.75
$12,000	1,080.00	190.00	1,270.00	720.00	80.00	800.00	322.50	20.00	342.50	228.75	15.00	243.75
$13,000	1,200.00	240.00	1,440.00	800.00	110.00	910.00	382.50	30.00	412.50	266.25	22.50	288.75
$14,000	1,320.00	290.00	1,610.00	880.00	140.00	1,020.00	442.50	40.00	482.50	303.75	30.00	333.75
$15,000	1,440.00	350.00	1,790.00	960.00	180.00	1,140.00	502.50	60.00	562.50	341.25	45.00	386.25
$16,000	1,560.00	410.00	1,970.00	1,040.00	220.00	1,260.00	562.50	80.00	642.50	378.75	60.00	438.75
$18,000	1,800.00	550.00	2,350.00	1,200.00	320.00	1,520.00	682.50	140.00	822.50	453.75	105.00	558.75
$20,000	2,040.00	710.00	2,750.00	1,360.00	440.00	1,800.00	802.50	220.00	1,022.50	528.75	165.00	693.75
$22,000	2,280.00	890.00	3,170.00	1,520.00	600.00	2,120.00	922.50	320.00	1,242.50	628.75	265.00	893.75
$24,000	2,520.00	1,090.00	3,610.00	1,680.00	780.00	2,460.00	1,042.50	440.00	1,482.50	728.75	385.00	1,113.75
$26,000	2,760.00	1,310.00	4,070.00	1,840.00	980.00	2,820.00	1,162.50	580.00	1,742.50	828.75	525.00	1,353.75
$28,000	3,000.00	1,550.00	4,550.00	2,000.00	1,200.00	3,200.00	1,282.50	740.00	2,022.50	928.75	665.00	1,593.75
$30,000	3,240.00	1,810.00	5,050.00	2,160.00	1,440.00	3,600.00	1,402.50	920.00	2,322.50	1,028.75	825.00	1,853.75
$32,000	3,480.00	2,090.00	5,570.00	2,320.00	1,700.00	4,020.00	1,522.50	1,120.00	2,642.50	1,128.75	985.00	2,113.75
$34,000	3,720.00	2,390.00	6,110.00	2,480.00	2,000.00	4,480.00	1,642.50	1,320.00	2,962.50	1,228.75	1,165.00	2,393.75
$36,000	3,960.00	2,710.00	6,670.00	2,640.00	2,300.00	4,940.00	1,762.50	1,540.00	3,302.50	1,328.75	1,345.00	2,673.75
$38,000	4,200.00	3,050.00	7,250.00	2,800.00	2,620.00	5,420.00	1,882.50	1,780.00	3,662.50	1,428.75	1,545.00	2,973.75
$40,000	4,440.00	3,410.00	7,850.00	2,960.00	2,960.00	5,920.00	2,002.50	2,040.00	4,042.50	1,528.75	1,745.00	3,273.75
$45,000	5,040.00	4,400.00	9,440.00	3,360.00	3,900.00	7,260.00	2,302.50	2,730.00	5,032.50	1,778.75	2,305.00	4,083.75
$50,000	5,640.00	5,510.00	11,150.00	3,760.00	4,960.00	8,720.00	2,602.50	3,540.00	6,142.50	2,028.75	2,925.00	4,953.75
$55,000	6,240.00	6,750.00	12,990.00	4,160.00	6,150.00	10,310.00	2,902.50	4,470.00	7,372.50	2,278.75	3,605.00	5,883.75
$60,000	6,840.00	8,110.00	14,950.00	4,560.00	7,460.00	12,020.00	3,202.50	5,480.00	8,682.50	2,528.75	4,345.00	6,873.75
$70,000	8,040.00	11,210.00	19,250.00	5,360.00	10,460.00	15,820.00	3,802.50	7,780.00	11,582.50	3,028.75	6,005.00	9,033.75
$80,000	9,240.00	14,810.00	24,050.00	6,160.00	13,960.00	20,120.00	4,402.50	10,480.00	14,882.50	3,528.75	7,805.00	11,333.75
$90,000	10,440.00	18,910.00	29,350.00	6,960.00	17,960.00	24,920.00	5,002.50	13,540.00	18,542.50	4,028.75	9,705.00	13,733.75
$100,000	11,640.00	23,510.00	35,150.00	7,760.00	22,460.00	30,220.00	5,602.50	17,020.00	22,622.50	4,528.75	11,605.00	16,133.75

Mr. DILL. Mr. President, I want to ask the Senator how much will be lost to the Treasury during the coming year by the provision that is agreed to with reference to the retroactive part of the estate tax?

Mr. SMOOT. As to the whole estate tax as we have now agreed upon it, there would be a loss of $15,000,000 for the coming year.

Mr. DILL. For the retroactive feature——

Mr. SMOOT. That is under the law to-day, I will say to the Senator. The 1924 act has the 25 per cent retroactive feature in it, or, I should say, the 25 per cent reduction that is allowed to the States.

Mr. DILL. The present bill does not add anything to the 1924 law in that respect? It raises it to 80 per cent?

Mr. SMOOT. Not as to 1924. The 80 per cent applies hereafter.

Mr. DILL. But it is not retroactive?

Mr. SMOOT. No; it is not retroactive.

Mr. DILL. Then the provision of the Senate in that respect——

Mr. SMOOT. The provision of the Senate as to estate taxes is exactly the same as the House provision with the exception that we struck out the $50,000 exemption and increased it to $100,000. The 80 per cent provision remains just as the House had it, and the rate is just as the House had it.

Mr. DILL. So the retroactive provision of the bill as reported by the Senate Finance Committee was not agreed to by the House?

Mr. SMOOT. We had no retroactive feature in the Senate in the pending measure. The retroactive feature only applied to the act of 1924.

Mr. REED of Pennsylvania. Mr. President, may I interject a remark?

Mr. DILL. Certainly.

Mr. REED of Pennsylvania. What we did was to carry the 1921 rate down to the date of the enactment of the revenue law of 1926.

Mr. DILL. So that, in effect, it is retroactive, so far as that law is concerned.

Mr. REED of Pennsylvania. To the extent of those deaths which have occurred from the time of the enactment of the 1924 law down to the time of the enactment of the present law. There is a reduction in rates there.

Mr. DILL. Does the Senator know what loss there will be to the Treasury as a result of that provision?

Mr. REED of Pennsylvania. In the present fiscal year it will cost the Treasury something more than $10,000,000, probably, and less than $15,000,000. The exact amount is very difficult to estimate.

Mr. SMOOT. I think the whole amount will be $15,000,000.

Mr. FLETCHER. Mr. President, we can perhaps get some light on the subject by reference to the CONGRESSIONAL RECORD relating to yesterday's discussion in the House. One Member of Congress said, at page 4426 of yesterday's RECORD:

> I regret, however, that the conferees felt compelled to yield to the Senate provision, which calls for a retroactive estate-tax reduction. This provision—

This bears on the subject that the Senator from Washington [Mr. DILL] raised.

> This provision, yielding back as it does some $85,000,000 of revenue, is so unprecedented in principle and so lacking in legislative fairness as to warrant a motion to recommit, which I hope later to make and to ask for your support.

That estimate of $85,000,000 stated by Mr. NEWTON, the Member of the House just quoted, was somewhat modified in the further discussion in the House, as will be shown on page 4428 in a statement by Mr. CHINDBLOM, who said:

> I do not know just how much will be paid back. The gentleman from Minnesota said that the total loss in revenue would be $85,000,000. Mr. McCoy, the Actuary of the Treasury Department, as I recall it, said that the total loss would probably be $68,000,000.

Mr. SMOOT. That is for the entire five years.

Mr. DILL. That is why I was distinguishing as to next year only.

Mr. FLETCHER. With further reference to that feature of the bill, I regret to see that the Senate conferees yielded in respect to the estate-tax provision in the bill. It seems to me they yielded a very important and vital principle, and that they should have insisted upon the Senate action with respect to the estate tax.

Mr. SMOOT. I want to say to the Senator that the conferees on the part of the Senate did insist upon it until—I do not know that I am betraying any confidence, for I have noticed that some one reported the circumstance to the press—the House conferees left the room. This was the ultimatum to the Senate conferees: "Unless that provision goes in, there shall be no bill," in just so many words.

Mr. FLETCHER. I desire to comment a little on that. That is an extraordinary attitude, it seems to me, to be taken. It may be justified under some circumstances, but if we consider what has been stated in connection with this matter from the beginning, the debates on the subject and the newspaper reports, it would look as if there was a good deal of bluff about the proceeding, if I may use that term.

Mr. SIMMONS. Mr. President——

The VICE PRESIDENT. Does the Senator from Florida yield to the Senator from North Carolina?

Mr. FLETCHER. I will yield in just a moment. There is some indication of a threatened "walkout" or "lockout" or "strike" of some kind, almost violent and little short of bloodshed, which has all the appearance to one on the outside of being camouflage, and, the circumstances considered, pretense very largely.

I yield now to the Senator from North Carolina.

Mr. SIMMONS. The question of the estate tax from the very beginning of our conferences assumed paramount importance, the House conferees asserting in the beginning that it was absolutely necessary that the provision be retained. All through the five days that we were engaged in conference that point would constantly bob up. I thought at one time, like the Senator from Florida now expresses himself, that possibly there was some element of bluff in it. I am not a good poker player, having played it only once in my life, but I have seen a good deal of bluff in my life and I set my ingenuity to work to find out whether this was bluff or whether it was a fixed and immutable position. I became satisfied that it was impossible for us ever to come to an agreement unless we conceded that proposition to the House. I became satisfied that they would concede almost anything to get that provision. Indeed, one of the conferees on the part of the House stated that he would rather have no tax bill at all than to have that provision stricken out.

I think it was the opinion of every one of the conferees on the part of the Senate that it was absolutely necessary that we should yield, and so we did. But I think that in yielding on that point we accomplished a wonderful thing for the taxpayers of the country. Mr. GARNER of Texas accomplished a wonderful thing for them in connection with the income tax. He increased the exemption on incomes from $1,000 to $1,500 for single persons and from $2,500 to $3,500 for every married person, and thereby he released 2,500,000 people in the country from all income taxes. So, by securing a thing which was very reluctantly yielded by the House, an amendment raising the estate exemption from $50,000 to $100,000 we released 6,000 estates out of 13,000 that usually report for estate taxation. I thought when we were compelled to make the concession that we got a very fair consideration for it.

Mr. REED of Pennsylvania. Mr. President, will the Senator permit me to interject a word?

Mr. FLETCHER. Certainly.

Mr. REED of Pennsylvania. I think it is only fair to say that from my point of view the statements of the Senator from Utah [Mr. SMOOT] and the Senator from North Carolina [Mr. SIMMONS] are away within the facts. Even the House conferees, who themselves evidently favored the repeal of the estate tax, told us over and over again that we would wreck the bill if we stood out for what we believed and what they believed was the right thing. They told us it was perfectly hopeless to accomplish a complete repeal. Everyone of us, Democrat and Republican, believed in it, and we on the Senate side worked for a complete repeal. We would have had no tax bill, I assure the Senator, if we had stood out for that point. As opposed to our yielding on that point, we exacted surrender all along the line and have accomplished what is tantamount to a repeal of the tax on nearly half the number of estates left by those who die each year.

Mr. SIMMONS. I might add to what the Senator has said that every suggestion that perhaps the House might repent if they would take it back and ask for consideration upon the proposition, representing to the House the seriousness of the situation, was met by an assurance on the part of the House conferees that there was absolutely no possibility of bringing about any change in the attitude of the House with respect to this matter.

Mr. FLETCHER. Mr. President, with reference to what the Senate conferees accomplished, perhaps the statement made by the chairman of the committee in the House, appearing in the CONGRESSIONAL RECORD at page 4421, might have some bearing:

> Mr. GREEN of Iowa. Mr. Speaker, in taking up the Senate bill with the conferees of the Senate we found, what probably every gentleman in the House knows, that never was there so much difference between the House and the Senate revenue bills as in this particular case, and in my 15 years' experience in Congress never has the Senate conceded as much as it yielded in agreeing to this settlement which we now present to you. The principal point of controversy, and the one on which there hinged the possibility that there might be no agreement whatever upon the bill, was the estate tax. The Senate capitulated entirely upon the estate tax, and with a minor amendment, which affects it in an insignificant manner, has yielded upon that questio...

A little further on he said:

> We agreed also to the small changes which were made by the Senate in the surtax rates from $24,000 up to $70,000. In short, Mr. Speaker, the conferees of the House come back here with every principle of the bill as it was passed by the House intact. [Applause.] Every tax that was in the bill before is in the bill now, with the single exception of the capital-stock tax, which by agreement was shifted over to the profits tax on corporations in order that the corporations might make only one return, and to save the difficulty there was in assessing the capital-stock tax.

Every tax that was in the bill originally is in it now; every principle that was in the bill originally is in it now; and, in effect, the House has conceded nothing.

Mr. SIMMONS. Mr. President——

Mr. REED of Pennsylvania. Mr. President, will the Senator from Florida yield for a question?

The PRESIDING OFFICER (Mr. GOFF in the chair). Does the Senator from Florida yield to the Senator from North Carolina?

Mr. FLETCHER. I will yield to either one of the Senators.

Mr. SIMMONS. I will defer to the Senator from Pennsylvania.

Mr. REED of Pennsylvania. Mr. President, I would merely like to ask the Senator from Florida whether he prefers to trust the generalities of the chairman of the House conferees, each of which seems to have been followed by applause in the other House, or whether he prefers to trust the evidence of his own eyes in the conference report, which shows that the Senate yielded on just 19 amendments out of 209?

Mr. FLETCHER. I understand that, but the claim is that the amendments on which the House of Representatives yielded were unimportant administrative amendments and did not signify much. At any rate, the Senate, it seems, has yielded the principle involved in the estate-tax matter, and that was the repeal of the estate tax entirely. The 80 per cent repeal applies to some States, but it does not apply to a good many other States. It does not apply at all to three States. If the conferees had made it 100 per cent repeal, that would have been quite a different thing as to those States, but to make, as the Senator from Utah [Mr. SMOOT] has said, in effect, an 80 per cent repeal does not take away from it that lack of uniformity which the Constitution condemns. I think the conferees surrendered a great principle when they agreed to the provision for imposing the tax and then allowing a credit of 80 per cent of the tax where inheritance taxes are paid to the State. This provision vitiates, makes invalid the whole title. It destroys the uniformity which the Constitution requires in all excise taxes.

In addition to that, however, there is another thing somewhat involved here. We might as well be frank about it. I do not mean to criticize the Senate conferees or to criticize anybody, except in so far as the facts may bear upon their action, but the gentlemen who know what goes on here from time to time and what goes on outside this Chamber, the shrewd, intelligent, capable, far-seeing correspondents, who keep their hands on the pulse of the people generally and keep contact with the thought of public men, seem to be well advised from time to time. They give us a few points that it is worth while for us to think of. I hold in my hand an article by Mr. Mark Sullivan, which is dated January 31—mind you, January—and appeared in the Miami Herald, and I have no doubt in a great many other newspapers. Mr. Sullivan states:

> The outstanding controversy about the bill is not between Republicans and Democrats as such, but rather between the House and the Senate over the retention of the estate tax. As to that, the probability of the House winning and of the estate tax being retained grows greater. Some of those who in the beginning assented to a nonpartisan basis for this year's tax bill, and whose assent was essential, now say that the retention of the estate tax was a fundamental start of the original compromise, and that by implication at least the Senate leaders and the administration, as well as the House leaders, were parties to that early understanding. Since a disturbance of the compromise now might imperil the bill, and would certainly make future continuation of the spirit of compromise impossible, the advantage in the controversy is on the side of those House leaders who in the beginning compromised and made a nonpartisan bill possible. This consideration will have weight.
>
> As respects nonpartisan cooperation on the tax bill and otherwise, there is evidence that President Coolidge prizes it, regards himself and the country as a beneficiary of it.

In other words, away back in January, before the Senate took this bill up for consideration at all, we are informed in this newspaper article that the leaders both in the House of Representatives and in the Senate had agreed on the retention of the estate-tax provision in the bill as the House wrote it. All the circumstances since then seem to indicate that Mr. Sullivan was quite well informed on that subject; and that raises a question which it is important to consider. Are we here in the hands of leaders in the Senate and leaders in the House of Representatives? Is it possible that five men in the other body, and a majority of those five, and five men in this body, and a majority of those five, will dictate hereafter the legislation of the Congress?

Mr. SMOOT. Mr. President, will the Senator from Florida yield to me?

The PRESIDING OFFICER. Does the Senator from Florida yield to the Senator from Utah?

Mr. FLETCHER. I do.

Mr. SMOOT. I do not know to whom Mark Sullivan was referring in the article which has been read by the Senator from Florida as leaders, but I do know that, so far as the chairman of the Committee on Finance of the Senate is concerned, there was not a single, solitary Representative who ever approached me as to any kind of an agreement whatever. Not a single, solitary Representative ever spoke to me about the estate tax or any rate or provision in the bill.

Mr. FLETCHER. Mr. President, I accept the statement of the Senator from Utah as being entirely true, but I confess to feeling that it is a subject of real importance whether we here in the Senate, who have been spending our time, week after week, debating the tax bill and offering amendments to it and securing an overwhelming majority of the votes in the Senate in favor of those amendments, have simply been engaged in a futile task that amounted to nothing. We might just as well have sent the bill back to the other House without any amendments, or we might just as well have adopted any kind of an amendment to the bill here, no attention being paid to our action by the leaders on the other side. We are engaged in a work of supererogation that amounts only to a waste of time and deliberation.

Mr. DILL. Mr. President——

Mr. FLETCHER. I yield to the Senator from Washington.

Mr. DILL. The Senator from Florida will recall that the item in the bill for which the Senate voted probably by the greatest majority of all, namely, the elimination of the automobile tax, does not seem to have caused any fight at all on the part of the Senate leaders in an effort to retain the Senate amendment. By an overwhelming vote the Senate was in favor of abolishing the automobile tax, but we have no report of any kind that any fight was made by our leaders to retain the Senate amendment.

Mr. FLETCHER. I am not so clear that it was worth while for the Senate to have adopted any amendments. The whole matter away back in January seems to have been fixed among the leaders. I am not so clear that the Members of the House have had anything to do with this bill. It looks as if the leaders over there and the leaders here have written this bill, if Mr. Sullivan is at all justified in his remarks. In this case coming events had cast their shadows before them.

Mr. NEELY. Mr. President——

The PRESIDING OFFICER. Does the Senator from Florida yield to the Senator from West Virginia?

Mr. FLETCHER. I yield to the Senator.

Mr. NEELY. Mr. President, may I say to the Senator from Washington for his consolation, that I purpose to give the Senate another opportunity to vote on the question of abolishing the automobile tax? I am merely awaiting an appropriate time to offer a motion to recommit the bill to the committee on conference, with instructions to insist on the Senate amendment which relieved the owners of automobiles of the 3 per cent purchase-price tax.

Mr. DILL. The Senator ought to include in that motion the striking out of the retroactive provision that will take $85,000,000 out of the Treasury and give it back to the owners of large estates.

Mr. NEELY. I hope the Senator from Washington will make such a motion.

Mr. SIMMONS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Florida yield to the Senator from North Carolina?

Mr. FLETCHER. I will yield to the Senator from North Carolina, and perhaps I will be able to go on with my speech after a while.

Mr. SIMMONS. Mr. President, I do not know to whom the Senator from Florida refers when he stated that it seemed that this bill had been made or agreed upon by the leaders before either House had acted upon it. Certainly he is not referring to the members of the Finance Committee of this body, and I presume he is not referring to the members of the Ways and Means Committee. He must be referring to somebody outside of the Chamber. If he is referring to members of the Finance Committee, either the minority members or the majority members, I think I can safely assure the Senator that there absolutely was no understanding between representatives of the Ways and Means Committee of the House and the Finance Committee of the Senate, either before the bill was passed upon by the committees or when the bill came before the two Houses. On the contrary, if the Senator will examine the RECORD, he will see that the attitude of the Senate with respect to this matter was different from that of the House upon practically every vital and major proposition in the bill.

I personally have never had any agreement with anybody in the House with respect to this bill, and I personally found myself in opposition to the members of the conference committee on the part of the House at practically every point with respect to the major features of the bill as it went to conference.

With respect to the automobile tax, Senators have no right to assume that we did not perform our duty toward the Senate, just as we did with respect to every other amendment adopted by the Senate. I know I took the position in consultation with

the Senate conferees that it was our solemn duty to make a fight and to stand firm so long as in our judgment there was any hope of accomplishing results with respect to every action taken by the Senate disagreeing with action taken by the House; and we did so. The major propositions—and the tax on automobiles was of that character—were thrashed out, and we advised ourselves with reference to the attitude of the House and found that they were unalterably opposed to the action of the Senate, and that they were going to insist upon the automobile tax for the reason, if for no other, as they maintained throughout, that without that tax it would be impossible to balance the reductions with the revenues of the Government. That was the very first question that arose upon the very threshold of the discussion.

Representative GREEN, chairman of the Ways and Means Committee, desired that the first thing we should decide was the question of how far we were going to increase the reductions, and to fix a deadline beyond which we could not go. The House conferees insisted that the Senate reductions far overstepped that deadline; that they overstepped it to the extent of $100,000,000, and they stated they would never concede any proposition that crossed the deadline determined upon. That was kept in mind by them throughout, and they would not consent to the small additional reductions that we made until they had advised with the Treasury Department and found that the revenues could stand such additional reductions.

The House conferees did, however, yield to us on new surtax rates in the middle brackets, saving the taxpayers an additional $23,000,000; they yielded to us when we increased the estate-tax exemption from $50,000 to $100,000, thus relieving of all Federal tax 6,432 small estates—nearly half of all taxable estates; they yielded to us, increasing the exemption under the admission and dues taxes from 50 cents to 75 cents—involving $9,000,000 additional reduction; they yielded on our retroactive estate-tax reduction, and the repeal of the capital-stock tax, and on many other more or less important amendments.

Mr. FLETCHER. Mr. President, I am not so clear myself as to who these leaders are. If I could point them out and put my finger on them, I would name them.

Mr. SIMMONS. Mr. President, if the Senator refers to anyone on the Finance Committee, let him name him.

Mr. FLETCHER. I should like to know who these leaders are, because hereafter when we have important measures pending I will not bother the Senate with them; I will not bother committees with them; I will go to these leaders and convince them, if I can. Let us try to locate these leaders, so we will know where to present our arguments and our proofs and our reasons for the legislation which we favor.

Mr. SMOOT. Mr. President, I suppose the only one who knows anything about who those leaders are is the author of that article, Mark Sullivan. Ask him who are the leaders.

Mr. FLETCHER. I am not fishing for alibis or anything of that kind. I am simply pointing out this situation. It is a matter of considerable importance, because I do not feel that we ought to waste our time with the consideration of matters here when we can go to the leaders and thrash them out. What is the use?

In reference to the estate tax, I will say for the Finance Committee, if I may be permitted to throw any bouquets at all, that I think they did splendid work, and I think they very greatly improved this bill. I should have been glad to have every one of their amendments adopted, and I wish they could have stood for them. They did splendid work. With reference to the estate tax, however, it seems to have been understood at least somewhere and somehow and in a powerful way that the estate tax was to continue and that the provisions of the House bill were to obtain. They did not in all respects remain precisely as the bill was originally written, but the principle is there.

The chairman of the committee has just said that the Government would not have lost any revenue if the estate tax had been repealed this year; not for four or five years would there have been any loss of revenue from that source. The argument made by those favoring a continuation of the estate tax is, "Why, these people who now oppose it originally voted for it." Grant it. We voted for a good many taxes in war times which we would not vote for to-day.

An estate tax never has been levied in this country except in war times or in great stress and emergency, and it never has been continued on the statute books for a longer period than eight years after that emergency passed.

I voted for the estate tax originally, I presume. Very likely I did. Many of us did. I doubt if there were many votes against it, because it was a war measure, never thought of in peace times and under normal conditions, never levied in this country under any other conditions except emergency conditions, and never continued when those conditions ceased to exist. That is the whole history of it. We are entirely consistent in having voted for the tax originally and voting now to strike it out. That is what we have done for 100 years in this country. We voted now to discontinue it.

The conferees have kept in not only the estate tax, but provisions in that tax which absolutely destroy it. The most vicious part of the whole thing was the 80 per cent credit. In my judgment the estate tax provision in the act of 1924 is unconstitutional because it provided for a 25 per cent credit. The question never has come before the courts, but when it does come there I am thoroughly convinced that the courts will do what Congress ought to have had the good sense and the judgment and courage to do. I never favored that 25 per cent provision in the act of 1924. I voted against it then, and it has been made a great deal worse by increasing the percentage to 80 per cent in the present bill. So that now we have the Government engaged in the business of levying a tax on estates and then crediting 80 per cent of that tax where the taxes are paid to the State in the shape of inheritance or succession taxes.

Mr. REED of Pennsylvania. Mr. President, will the Senator permit a question?

The PRESIDING OFFICER. Does the Senator from Florida yield to the Senator from Pennsylvania?

Mr. FLETCHER. I yield for that purpose.

Mr. REED of Pennsylvania. I think I remember that the Senator was one of those who voted in 1924 to raise this tax to 40 per cent. If that is so, how can the Senator consistently find fault with us because we have reduced it to 20 per cent?

Mr. FLETCHER. I am not finding fault with the reduction. I am finding fault with the continuance of the provision—which I never voted for in 1924 at all, which I denounced in 1924 as I am denouncing it to-day as unconstitutional—which provided for that 25 per cent credit, and that is the vicious part of the thing. I should not object to an estate tax so much if people really believe that war conditions are still obtaining and we have to raise revenue on a war basis.

I can find arguments for that, and I should not find any fault with them if they levied a straight estate tax, or, better still, an inheritance tax; but when they go to impose a tax and then in the same provision allow a credit of 80 per cent, which does not apply to some of the States at all, they destroy the uniformity required by the Constitution in excise-tax matters. In my judgment the whole title is unconstitutional, and the courts will so hold whenever the question is presented to them, and they will hold it largely because the purpose of this provision is not to raise revenue at all. Its purpose is outside of the accomplishment which must be contemplated under the taxing power of the Government. It is to promote, as they claim, uniform legislation throughout the country.

What business has Congress with dictating the legislation of the States? What right have we here to say to one State or another State or any State, "You must pass your laws according to our view in order to come within the provisions of this act"? Congress has no such authority. It is an effort to coerce the States; it is an effort to exercise a power which the Congress does not possess, and to force upon the States legislation which we think the States ought to enact. We have nothing to do with that question. Each State has the absolute power, the sole jurisdiction and authority, to impose upon its people whatever taxes it can or should within its own constitutional limitations, and the Federal Government has not a word to say on that subject. It has no authority to deal with it.

That is the effort of this law, the purpose of the provision—not to raise revenue. Although you are exercising the taxing power which Congress has to impose excise taxes, you are not after revenue at all. The fact is, you are giving up 80 per cent of what you propose to impose upon the estates, and that shows that you are not after raising revenue. It is very doubtful in my mind whether you will derive enough revenue, after all these provisions are made under this bill, to much more than cover the expenses of collection, because you keep in active operation all the divisions and departments and bureaus and branches and appeal boards and all that sort of thing dealing with these questions, and you have to pay that expense. Then, after you have assessed your tax, you propose to allow not a deduction merely but a credit on the amount of that tax to the extent of 80 per cent of it where inheritance taxes are paid in the States.

That, as I say, makes a law applicable to Georgia which is not applicable to Florida. The collector of internal revenue can stand on one foot in Georgia and collect $800 from an estate, and on the other foot in Florida he must collect $1,000 from an estate of the same assets. Alabama, Nevada, and

the District of Columbia, as well as Florida, do not impose any inheritance taxes at all, and consequently they are discriminated against by this provision.

The Constitution requires that all excise taxes shall be uniform throughout the country. Does it mean that we can impose, for instance, on products brought into this country an import duty of one rate in New York, and another rate in South Carolina? That can not be done under the Constitution. This kind of a tax rests upon the same principle as customs duties. It is an excise tax. It must be uniform throughout the country and as to every State. I say you have retained by this conference report a provision with reference to estate taxes which ought to have gone out as the Senate decided, even if the estate tax was retained, and if you retain it at all you should have stricken out of the provision paragraph (b), which provides for this credit of 80 per cent of the Federal tax when that amount is paid in the States under their inheritance tax laws.

I am sorry, but in these circumstances I can not favor the adoption of this report. I think the matter ought to go back for further consideration on this question alone. It is an important question, because it involves an important principle, a principle which we can not ignore. Any one who believes in the rights of the States, and who holds those rights sacred, it seems to me is obliged to find that there is usurpation and coercion and an unauthorized exercise of power here under the taxing power of the Federal Government.

I thing a great principle is involved; and for that reason, as I say, I must vote to reject this conference report, and let the matter go back to conference further, because it does seem as if we ought not here to confirm a preconceived notion that has been established somewhere else and that is maintained without a full and fair discussion of this subject.

I ask unanimous consent to have printed in the RECORD as a part of my remarks an article appearing in the New York Sun.

The PRESIDING OFFICER. Without objection, that order will be made.

The matter referred to is as follows:

[From the New York Sun]

REPEAL ESTATE TAX

The Senate, by a vote of 2 to 1, has made its decision to repeal the Federal estate tax. The vote was bipartisan, 18 Democrats joining 31 Republicans in favor of repeal and 16 Republicans joining 10 Democrats in opposition.

The Senate's action is logical. The feeling has grown in both parties that the right to levy death duties is one which belongs inherently to the States and which should be resorted to by the Federal Government only in the emergency of war. With the Federal Government's hands off, the various States would be in better position to arrive at their own policies in regard to inheritance taxes. These decisions would be governed by pecuniary needs and the feeling of the people.

It remains for the House of Representatives to finish the job by agreeing with the Senate. The House has already shown its lack of faith in the principle of Federal estate taxes, for its revenue bill reduces the maximum tax to 20 per cent and offers the taxpayer a credit of 80 per cent of the inheritance tax collected by the State.

The Federal tax is wrong from the standpoint of political theory. It is wrong from the standpoint of practical national finance. Let the Federal Government abandon estate duties until their imposition is made necessary by a crisis.

Mr. WILLIS. Mr. President, I can not indulge in the lugubrious prophecies and doleful fears which seem to affect the Senator from Florida. I am not so sure that this bill as it has been reported by the conferees is not a better bill than it was as it passed the Senate. I am rather inclined to think it is; and so far as I am concerned, I shall support the conference report. I think it would be a vast mistake to send the bill back to conference and to delay the enactment of this important legislation, in which the whole country is vitally interested. Therefore I shall support the conference report; but before I take that position I desire to point out what I regard as a very serious injustice that has been wrought by the conferees.

I think it is unprofitable to undertake to ascertain the attitude of various conferees. I think that is a useless performance. As other Senators may feel, I am dissatisfied with certain agreements which have been made by the conferees, but for one, I have no idea at all that somewhere in the offing, in the mists, there are some mysterious leaders who last January, or at some other time, shaped this bill. I can not understand any such fanciful notion as that.

To me it is perfectly apparent that this decision has been arrived at as conference reports must always be arrived at. The legislative body at the other end of the Capitol passed a bill by a very large majority, to the provisions of which the Members of the House were very much devoted. This body took up that bill and amended it in important particulars, upon lines which did not appeal to the Members of the House. Here, then, was a situation where there had to be compromise. I do not undertake to analyze and to appraise to see whether the Senate conferees or the House conferees have yielded the most. Indeed, I think it would be unprofitable to go into that. What I rose to say was that I do believe the bill is a good bill and worthy of support, and I shall therefore vote for the report, but not until I have called attention to what I regard as an injustice that has been wrought by the action of the conferees.

The Senate adopted amendment No. 29, at pages 70 and 71 of the bill. At the time the amendment was before the Senate, I spoke somewhat at length and do not care to occupy very much time now. What I said before is applicable to the question now pending.

I invite attention to the conference report, page 35. A certain statement is made with reference to amendment No. 29, which related to the subject of living revocable trusts. The conference report states:

The early practice of the Treasury Department permitted a grantor of a revocable trust to include the income and losses of the trust in his tax return.

That statement is absolutely accurate. I hold here a copy of the regulations issued by the Treasury Department, and I read a sentence or two from those regulations. Article 341, Regulations 45 Revised, promulgated by the Commissioner of Internal Revenue, is as follows:

The income of a revocable trust must be included in the gross income of the grantor.

It is not permissive, but it must be included.

Likewise, Treasury Decision 621, at page 202, provides:

The income of a revocable trust must be included in the gross income of the grantor.

In other words, this was the situation: In 1919 the department issued a regulation requiring that living revocable trusts be not considered in computing the amount of income tax; that is to say, whatever came from such a trust was to be counted in with the rest of the income of the individual, and, of course, under that decision capital losses could be deducted from the profits.

In 1923 the department changed its mind and issued a regulation providing that thereafter capital losses could be assessed only to the trustee. Of course the trustee had nothing at all, because in the case of a living revocable trust the profit went back to the donor or the grantor.

The injustice of the whole matter resides in this, that particularly in my State, in and about the great city of Cleveland, some four or five thousand people of moderate means, relying upon the Treasury regulation, had kept their property tied up in these living revocable trusts. If they had not so relied, they could have revoked the trusts, and therefore would have had the right under the law to deduct capital losses from their incomes. But they supposed that Uncle Sam was fair, and they relied therefore upon the regulations.

In 1923 the order was changed. When we passed the act of 1924 the Congress immediately saw the injustice that would be wrought and made provision therefor in the act, as we in effect do in this very bill which will soon be enacted into law. Yet simply because the Commissioner of Internal Revenue changed his mind between 1919 and 1923 it is proposed to go back to that period and penalize the people for doing exactly what the regulation told them to do and what the law said they might do.

Mr. President, it is unfair, it is unreasonable, it is unconscionable, and it is such actions as these that make the people dissatisfied with their Government.

I think this amendment should have been kept in the bill. I do not seek to pry into the affairs of the committee to find out who voted for it or who voted against it. I content myself by entering this protest, and saying that since I believe there is vastly more of good than of evil in the measure, I shall support the conference report, notwithstanding the unfairness involved in striking out this amendment.

Mr. SMOOT. Mr. President, I assure the Senator from Ohio that the House took the position in the case of all these retroactive provisions in the bill that wherever they took any money whatever from the Treasury of the United States they would not agree to them. There are two other amendments in exactly the same position. All three of those amendments went out. It was not because of the fact that the Senator's amendment as adopted by the Senate was thought unjust by

the committee. There was nothing of that kind. But the House conferees took the position which I have stated, and the amendment went out of the bill.

Mr. WILLIS. Will the Senator yield at this point?

Mr. SMOOT. Certainly.

Mr. WILLIS. I accept the Senator's statement, as I accept any statement from him, at its full value, because I have absolute confidence in his integrity as well as in his ability. If the House conferees refused to accept this because it was retroactive, upon what theory did the House conferees justify their action in accepting the provision for the reduction in the inheritance tax?

Mr. SMOOT. That would not take any money out of the Treasury.

Mr. WILLIS. It would do what is tantamount to that.

Mr. SMOOT. That is, money which had been paid in. That is the position they took. That is exactly what happened in regard to these retroactive features.

Mr. WILLIS. I do not question the Senator's statement at all.

Mr. DILL. I want to remind the Senator from Utah that the retroactive provision regarding the estate tax means refunds out of the Treasury.

Mr. SMOOT. It means that the money shall not go into the Treasury. I shall not argue that it would not mean a loss. I am simply stating the attitude taken by the conferees of the House.

Mr. DILL. The conferees did yield as far as the retroactive provision of the estate tax was concerned, so they did not stand like a stone wall on that provision.

I have been rather interested in the speeches made in the House yesterday by the House conferees, compared with the speeches made by the conferees of the Senate. The conferees of the respective Houses claimed that each House got the bill it wanted. The House conferees say that they got almost everything in the bill which they wanted, and the Senator from Utah says that the Senate got practically everything the Senate wanted. So far as I am concerned, I want somebody else to claim credit for this bill. I would not want to take credit for its final enactment.

The truth of the matter is that the House succeeded in keeping this bill in essentially the form in which it left the House, with the added provisions which the coalition in the Finance Committee of the Senate wanted. In other words, the House yielded on the increase in the surtaxes on incomes below $100,000. That was agreed to by the coalition of the members of the Finance Committee in the Senate.

Mr. REED of Pennsylvania. There was no change made by the Senate in the surtaxes on incomes of over $100,000.

Mr. DILL. I refer to incomes under $100,000.

Mr. REED of Pennsylvania. I did not catch the Senator's statement.

Mr. DILL. I said incomes under $100,000, which the Senator from North Carolina had fought for. The House yielded on that. I notice also that the Finance Committee's provision on the admission tax is carried out in the agreement. The coalition never agreed to the abolition of the automobile tax and the admission tax, but the Finance Committee did have some change in the admission tax, and I notice that the Finance Committee's provision on the admission tax is carried out in the conference report. So that, on the whole, the things which the coalition in the Senate agreed to they secured, with the exception of the abolition of the estate tax, which they tried so hard to get; and the things which the Senate really stood for were yielded by the Senate conferees.

Mr. SIMMONS. Mr. President, I think the Senator is getting a little mixed up. There never was any agreement between the majority and the minority of the Finance Committee that had any reference to admissions and dues.

Mr. DILL. I said that. The Senator misunderstood me. At least, I meant to say that. I said those things upon which the coalition of the Finance Committee agreed are retained in the conference report to a large extent, but the things which the Senate struck out of the bill, such as the admission tax and the automobile tax, were yielded by the Senate conferees, so that the coalition bill is practically what we have in the conference report, with the exception of the estate tax, and the Senator from Utah assures us we got most of that.

I want to call attention to the statement yesterday in the House about this retroactive provision of the estate tax. The truth of the matter is that most of the Members of the House and of the Senate really do not understand it, and they can not discuss it intelligently. I am sure I can not, and I think a majority can not. But yesterday Congressman NEWTON of Minnesota, in speaking about this, made an explanation which I think is worth reading.

Mr. REED of Pennsylvania. On what page is it?

Mr. DILL. On page 4427. He said:

> It is this provision which hands out refunds of cash or cancels obligations to the beneficiaries of these few great estates.

He has quoted some 15 or 20 estates.

> Gentlemen, who requested this? If you search the printed hearings of the Committee on Ways and Means you will find no answer. They are silent. You will find that many appeared there and advocated the reduction or repeal of this or that tax, but no one apparently had the temerity to appear at these public hearings and ask that the beneficiaries of these great estates be granted cash refunds aggregating $85,000,000. If you search the hearings of the Committee on Finance in the Senate you will find the pages equally silent. Yet the proposal was first put into the bill over at the other end of the Capitol.

Mr. SIMMONS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from North Carolina?

Mr. DILL. I yield.

Mr. SIMMONS. Those statements are about on a par with some other statements which have been made in regard to this retroactive provision, and when the Senator has finished, if I can get the floor, I will undertake to explain that in full.

I do not know who made the statement just read by the Senator——

Mr. DILL. Congressman NEWTON of Minnesota.

Mr. SIMMONS. Evidently Congressman NEWTON knew nothing about the facts, if he said this retroactive provision had not been considered by the committee.

Mr. DILL. He did not say that. He said no witnesses appeared in public hearings who advocated it.

Mr. SIMMONS. Right there, if the Senator will permit me, I want to put in the RECORD the facts with reference to that matter. I do not know, of course, the number of witnesses who appeared before the Ways and Means Committee upon this question, but I do know the fact that the Ways and Means Committee considered the matter very thoroughly.

Mr. DILL. Does the Senator say that witnesses appeared asking for the retroactive feature?

Mr. SIMMONS. I do not know as to what witnesses appeared, but I say that the Ways and Means Committee considered this retroactive provision very thoroughly, and acted upon it.

Mr. DILL. In the House?

Mr. SIMMONS. In the House. The Ways and Means Committee acted upon it favorably, and wrote it into the bill as a complete proposition.

Then subsequently and before they reported it out they rescinded their action, but when they rescinded their action the chairman of the Ways and Means Committee [Mr. GREEN] saw fit to make a statement, which I understand was a written statement and which statement I would like very much to read to the Senate. That was after they had incorporated the retroactive provision in the bill. I do not suppose they incorporated it without due consideration, and I suppose they must have had made to them some representations of a character satisfactory to them.

Mr. DILL. But the Senator does not dispute the statement that no witnesses appeared, either before the House committee or the Senate committee, arguing for the change making the provision retroactive?

Mr. SIMMONS. I do not dispute the statement with reference to the Ways and Means Committee. I am merely stating the fact that they acted upon it, and I do not suppose they acted upon it without due deliberation. I do not know what the facts are.

Mr. DILL. The Senator has no quarrel with the statement of Mr. NEWTON, when he said nobody appeared in the public hearings to ask for the changes which were made first on the House side and then over here.

Mr. SIMMONS. My statement is simply that the Ways and Means Committee took final action with reference to the matter and agreed to incorporate the provision in the bill.

Mr. DILL. And then they rescinded their action.

Mr. SIMMONS. I am going to read from a statement by Chairman GREEN. It is an apology for striking it out. I do not know to whom he is apologizing, but that is what it appears to me to be. This is the statement:

> Prior to the introduction of the bill into the House the committee rescinded its action and its chairman issued a statement giving its reasons as follows:
>
> The committee, when it decided to apply the 1921 rates to the estates of those who had died between June 2, 1924, and the date when the new act takes effect, understood that the loss occasioned

by such provision would amount to $20,000,000. It now appears from an estimate based on estates of $450,000,000 returned under the 1924 revenue act, that the loss will aggregate approximately $70,000,000, assuming the bill becomes law March 1, 1926. The bulk of this loss will fall in the next two years. Moreover, the most recent estimate submitted by the Treasury actuary indicates that other proposed changes in the estate tax will occasion in the fiscal year 1927–1928 a loss of revenue of not less than $10,000,000 and a much larger amount the following year. This $10,000,000 added to the other reductions recommended by the committee will bring the total amount of reduction to within $2,000,000 of the surplus estimated by General Lord, and $28,000,000 in excess of the tax reduction recommended by the Secretary of the Treasury.

These figures make it very clear that the proposed relief to the estates falling under the provisions of the 1924 act would cause so great a loss of revenue as to exceed the limits of safety, unless the committee were prepared to revise the proposed bill in other respects. This the committee does not feel would be justified, and the retroactive tax proposition having been adopted under a misapprehension, the committee has decided to eliminate it.

I read that simply to show the grounds upon which they struck it out of the bill after having put it in. In other words, they found that the loss would be too great for the requirements of the Treasury.

Mr. DILL. The Senator said he did not know to whom Mr. GREEN was apologizing. Evidently he must have been apologizing to those who would have to pay the money and who, if the retroactive provision had remained, would not have had to pay it.

Mr. SIMMONS. I do not know how that would be.

Mr. DILL. I make that as a suggestion in reply to the Senator's comment. I think I shall continue reading the statement of Representative NEWTON of Minnesota, because the Senator from North Carolina has not disputed the statements here made:

Yet the proposal was first put into the bill over at the other end of the Capitol. Has the matter ever come up in the House for a determination on the merits? No. This is the first time it has ever been presented or proposed to this House, and it comes before us tied up with the conference report and at a time when practically everyone wants to see tax reduction accomplished, and that speedily.

Was it ever considered in the Senate? Only in a limited extent. The Senate amendment (No. 100) repealed the estate tax entirely. As a part of that amendment the Senate inserted this retroactive provision. The retroactive provision itself was never separately voted upon in that body. So that it can be said without fear of successful contradiction that this proposition has never been considered on the merits separately in either House of Congress. Yet it provides for turning back to the beneficiaries of these 25 or more large estates $85,000,000 in cash or obligations due the Treasury. If the Treasury does not need this money, I would rather see the reduction given in the form of a repeal of what is left of the admission and automobile taxes.

I read that because it expresses a thought I want to repeat. The automobile tax, the abolition of which the Senate voted by an overwhelming majority of 3 or 4 to 1, would take $69,000,000 out of the Treasury; yet rather than take off the sales taxes, the nuisance taxes, the conferees agreed to refund in effect to 25 big estates $85,000,000.

I saw this morning in a newspaper a statement that Mr. Coolidge has announced that he was proud of the record being made by Congress on the tax bill. I wonder how many representatives of the people will really be proud to go back home and say, "We left the automobile tax on you to the amount of $69,000,000 in order that we could relieve 25 big estates, running into millions of dollars, of $85,000,000 they would have had to pay." I wonder how many will be proud of that record? I am not so much concerned about the taxes on admissions and dues, although I think they ought to be abolished, but the automobile taxes bear directly upon the daily life of the people of the country. Not only did the conferees fail to secure the abolition of the automobile taxes, which was voted by a bigger majority than any other important change voted in the bill, but they did not even get a reduction of the 3 per cent when they might have secured at least a part of that reduction.

Mr. FLETCHER. Mr. President, may I ask the Senator a question?

Mr. DILL. Certainly.

Mr. FLETCHER. Does not the fact that in the same title and under the same provisions they not only gave up $85,000,000 or $68,000,000 or $70,000,000 but provided for a credit of 80 per cent, show that the whole title is not aimed at the purpose of raising revenue or supplying the needs of the Treasury?

Mr. DILL. I think that is true. Of course, the Senator from Florida and I disagree with reference to the desirability of the estate taxes, but we do agree upon the undesirability, and I think the unconstitutionality of refunding to the States a certain percentage of taxes levied by the Federal Government because of the different State laws.

Mr. FLETCHER. That is the main point.

Mr. DILL. I disagree with the Senator from Florida about the estate tax to this extent: He said it was a war tax. I think the Democrats voted solidly when the last two revenue bills were before the Senate, for the estate tax as an emergency measure for raising revenue to pay debts resulting from the war. I am in favor of a continuation of the provision because of the war debt that still hangs over us, because of the fact that we are spending $800,000,000 a year in paying interest on the war debt, and to create a sinking fund to eventually get rid of the war debt. I maintain it is an emergency expense that is upon us and that the great estates should continue to help bear it. But I agree with the Senator in his proposal that we shall not assume to say to a State, "You shall pass certain legislation or we will take more from the people of your State than we do from the people of another State." I think the courts will eventually decide that we have no such authority and no such power.

Mr. BRUCE. Mr. President, may I ask the Senator a question?

Mr. DILL. Certainly.

Mr. BRUCE. Does not the Senator think that some allowance ought to be made as a matter of justice to estates which have been acquired after the 1924 act and before the revenue act of 1926 shall go into effect? He knows, of course, the rate of taxation on estates under the act of 1921 was lower than under the act of 1924 and higher than it will be under the act of 1926. Does he think under those circumstances that the amount of estate tax should turn on the mere accident of some wealthy man having died between 1924 and 1926?

Mr. DILL. I must say in reply to that suggestion of the Senator from Maryland that if the death is to be called a mere accident the statute existing at the time of his death should control the taxes on his estate. That theory should apply, and an estate tax should not be laid merely because a certain man happened to die last year and did not die this year.

Mr. BRUCE. Not necessarily, when the disparity is so great, where the difference between the rate of taxation under the act of 1924 and under the proposed act of 1926 is so enormous. It looks a little more like punishing a man for dying at a particular time than taxing him.

Mr. DILL. I will say to the Senator that I recognize some justice in his position, but my position is that that is not as unjust and is not as unbearable to those who have millions of dollars in estates that are acquired as these estates are, as it is to continue the nuisance and sales taxes on the business of the country which so badly needs to be relieved of them at this time. If we had no war burdens I would say to the Senator then we at least ought to put the estate tax to a very low figure, or make the exemption very high, or abolish it altogether, but when the war burdens are still on us and emergency taxes must be levied, I know of no source from which it is so easy to collect and which is really such a light burden as the estate tax or, as I would prefer, the inheritance tax.

Mr. BRUCE. It is always easy to swat and choke the rich, but it is not so easy to vote a tax of $15,000,000 on automobiles; that is to say, to any man who has any regard for his political future.

Mr. DILL. I will say to the Senator that there are two sides to that sort of argument. Regardless of the popularity of the vote in either case, the other side is, who can best afford to pay the taxes, the automobiles which have taken the place of the buggy and wagon of a few years ago or the estates that have been left by those who are done with them and which have passed by operation of law to others?

Mr. BRUCE. There are thousands of automobiles in the country that are owned by the very richest individuals of the land.

Mr. DILL. And by the very poorest.

Mr. BRUCE. There was a time when we had a tax on vehicles of every description. The Senator perhaps will recollect that. Again, the automobile tax is to a tremendous extent, of course, imposed on vehicles of transportation which are engaged in business and which presumably are earning some profits for their owners. So it seems to me, if the question is to be gone into, some line of discrimination ought to be drawn between automobiles used for business purposes and automobiles used by these business magnates on whom the Senator from Washington is so anxious to bring the impact of taxation, and the remaining class of automobiles.

Mr. DILL. I want to take the tax off all automobiles. I do not want to classify them; I want to take the tax off all of them. I maintain that the estates that have been left, running up in the millions, can better afford to continue to bear this burden than can the automobiles, which are not now classified and which this tax bill does not classify. The tax on automobiles bears down on the business of the country.

Mr. BRUCE. Mr. President, may I ask the Senator from Washington one more question?

Mr. DILL. Yes.

Mr. BRUCE. Of course, the Senator is aware that certainly one or two of the individuals whose estates will get the benefit of this reduced tax gave enormous sums of money which are needed for the benefit of popular education and other public purposes?

Mr. DILL. Yes.

Mr. BRUCE. One of them—I believe, Mr. James B. Duke—gave out of his estate during his lifetime and after his death—if one may use such an expression—no less than $94,000,000.

Mr. DILL. I am familiar with that, and I am also familiar with the fact that a man by the name of Carnegie has built monuments all over the United States, which are called libraries, with his name on them, but he collected those millions by a system of monopoly in this country that almost threatened the life of many industries. I have no criticism of Mr. Duke for giving $94,000,000—I am glad when a man gets that much money to have him provide that after he has gone it will do great service to the community—but I am sure, having left that much money, those who received it without effort on their part can better afford to pay an estate tax than can the common masses of the people afford to pay taxes on the automobiles which they are using to carry on their business affairs.

The Senator from West Virginia [Mr. NEELY] stated that he was going to offer a proposal to recommit this bill with instructions to strike out the automobile tax. I hope that he will do that. I think, however, that, together with the proposition to recommit the bill, there should be coupled a further provision that the retroactive feature applying to the reduction of the estate tax shall be stricken out, so that the estates of those who may have died prior to the enactment of this bill shall pay the tax that was levied upon them by Congress in the last revenue act, and that whatever reduction may be made in the estate tax will go into effect only upon the enactment of the bill. Then we will not be guilty of going back and taking off the burdens of taxation that have already been levied upon great estates.

Mr. NEELY. Mr. President——

Mr. SIMMONS. Mr. President, before the Senator from West Virginia makes his motion to recommit I should like to make some observations. I suppose when the Senator makes his motion to recommit on account of the retroactive feature of the estate-tax reduction, he will also include a motion instructing the conferees not to recede from the amendment with reference to the estate tax. The two ought to go along together if the bill shall be recommitted.

Mr. President, I have listened with a great deal of pleasure to the Senator from Florida [Mr. FLETCHER]. His argument made to-day is very nearly a repetition of the argument which he made when the tax-reduction measure was before the Senate. Of course, we all know that both the Senators from Florida, indeed, the entire Florida delegation, are opposed to this or any other Federal estate tax. Their local situation makes it impossible for their State to secure any advantage from the 80 per cent reduction provided in the measure and will make it necessary for the citizens of Florida, whether the State imposes any inheritance tax at all—and it can not do so under its constitution—to pay the full 100 per cent tax levied by the Federal Government. It is perfectly right for the Senator from Florida to feel the way he does about it. So far as his argument against the estate tax imposed in the bill as it came from the other House, which the Senate conferees have in part agreed to, is concerned, and so far as his general attitude of opposition to the estate tax is concerned, I heartily concur with him. I think that the estate tax to which the Senate conferees have been compelled to agree in conference is an unscientific, illogical, and un-American proposition. I think, more than that, that it is an outrageous invasion of the rights of the States. I expect it will be speedily repealed, because it is so badly and unscientifically written that it will be found very difficult of administration.

I have never been opposed to estate taxation—it is a proper and fertile source of revenue, but I think the States undoubtedly have the right to keep that source of taxation exclusively for State revenues, and that except in emergency the Federal Government should keep out of it.

I am sure that the American people have been sold to the idea that if the House provision shall be adopted every State will get 80 per cent of all the taxes that the Federal Government levies against estates. As a matter of fact, Mr. President, that is not so. No taxpayer will get any benefit whatsoever from the 80 per cent credit provided unless he has paid a tax in his own State and also pays a tax to the Federal Government. Many of the estate taxes which are levied in the States where small exemptions are allowed press upon estates that will not be reached by the Federal inheritance tax at all, and those taxpayers will get no benefit from its provisions. It is only the large taxpayers of the States who are going to get this 80 per cent credit, and an estate will have to be of pretty large proportions to get any part of the credit allowed in the House bill.

However, it is not that that caused my opposition to this proposal; it is not that that caused me in conference to fight to the last ditch against it; I fought it because I think it is contrary to the genius and spirit of our institutions; because I believe if this kind of legislation shall prevail in this country, if this shall become a settled policy, if this precedent shall be again acted upon and carried down the line so as to include income taxes and gasoline taxes and other taxes of similar character, we shall soon reach the point where the rights of the States will be so materially interfered with and the coercion upon them will be of such a nature that the very foundation of our system of government will be undermined if not overthrown.

We have two separate sovereignties here in America, cooperating and coordinating, and so long as they continue to cooperate as provided in the Constitution there is no danger to the sovereignty of either, but when one of these sovereignties, by reason of its immense power, by reason of its supreme power under the Constitution within the limitations of its authority, grows sufficiently strong to establish a system that undermines the sovereignty of the other, then our Federal representative system will go to pieces.

It is for that reason—and that is my hope, my only hope in connection with this provision—it is for that reason, together with the inability practically to administer this plan so as to meet the requirements of credits for sums paid to the States and enable the people to get what they think they are going to get out of this act, that I believe there will be a revulsion against this measure in a very short time, and that it will not be long before Congress shall take action looking to its final repeal.

Mr. President, I did not rise for the purpose of discussing the inheritance tax. The Senate conferees had to agree to its retention; but I assure every Member of the Senate that we did so with the greatest reluctance. We did not do it except as a last resort. We knew the people of the United States were demanding the enactment of this bill; we knew that if we did not come to an agreement the people would lose the benefit of this legislation, at least upon the incomes of 1925, and rather than make a deadlock and say to the country, "We will not permit the passage of this measure to which the people are looking with such hope and expectation," we agreed to the retention of the estate-tax provision. We coupled it, however, with a provision that it should be retroactive, not to its fullest extent but partially, during the short life of the act of 1924, a little over a year. We said, "If you will give the widow and the orphans of the man who is dead, who died during the 1924 period, when the taxes on his estate reached 40 per cent, practically the same benefit in reduction that you propose to give to the estates of men who die hereafter, we will agree." It was the 1924 act with which we were dealing; the proposition to cut that high rate almost in half was what we were dealing with. On one side were ranged the estates of the people who died during the year 1924; on the other side of the line were the estates of the people who will hereafter die. We said, "If you are going to give the benefit of the 20 per cent reduction to the estates of the people who die hereafter, why should you not also give it to the estates of the people who died in 1924, when these very high rates that you are now cutting down for the benefit of people who will hereafter die were in operation?"

Mr. DILL. Mr. President, will the Senator from North Carolina yield to me?

Mr. SIMMONS. Yes.

Mr. DILL. On the same principle why should you not give the men who had to pay an income tax last year the same reduction that you are going to give them for the coming year?

Mr. SIMMONS. That is absolutely the thing that we did. I shall come to that in a few moments. We did absolutely the same thing upon income taxes that I am urging here should

have been done and was done, but not quite to the full extent on estate taxes.

It has been said that the tax for 1924 had already accrued. True, it has not yet been paid, but it has accrued to the Government, and is as much a part of the funds of the Treasury as if it had been paid. As the Senator from Nebraska [Mr. NORRIS] said the other day—

> You are running your hands into the Treasury and taking out $84,000,000 that have already accrued to the United States Government, and you are turning that over to the estates of the people who have died during the year 1924.

Mr. President, the very identical thing that is proposed here with reference to estate taxes is the thing that is proposed in this bill with reference to the income taxes of individual taxpayers in this country, to which nobody has objected—that and nothing more—except that we give the income-tax payer greater reduction than we do the estate-tax payer, and except that the income-tax payers of the United States have already had their taxes reduced three or four times since the war, and we are giving them 50 per cent maximum additional reduction, while in the case of the estate tax we started in the war with those rates at a maximum of 10 per cent, going then up to 20 per cent, then up to 25 per cent, and in 1924 up to 40 per cent.

Mr. DILL. Mr. President, the Senator does not mean that the taxes paid on the incomes of the year 1924 are going to be cut down at all, does he?

Mr. SIMMONS. What taxes is the Senator talking about?

Mr. DILL. You are not going to cut down the rate of income tax for the year 1924 as levied?

Mr. SIMMONS. I said 1925.

Mr. DILL. The Senator did not say "1924," but that was the implication from his remarks. He did not say "1924."

Mr. SIMMONS. I said the taxes of 1925.

Mr. DILL. This year's taxes, of course, are going to be cut down.

Mr. SIMMONS. Last year's, paid this year. That is the same thing that it is proposed to do with reference to the estate tax. You are going to reduce the estate tax 50 per cent from its present level, and you are going to give the benefit of that reduction to everybody who hereafter dies, but you would deny the benefit of that reduction to those estates whose owners died during the years 1924 and 1925——

Mr. DILL. We deny the cut in income taxes to the men who paid them in 1924, too.

Mr. SIMMONS. No, Mr. President; nobody has paid yet an income tax for 1925, and practically nobody has yet paid estate taxes for 1925; but the estate taxes for 1925 have accrued, and the income taxes for 1925 have accrued. They both stand upon the accrual basis. If you put your hands in the Treasury and drag out $85,000,000 because that estate tax has accrued and turn it over to the taxpayer in the case of estate taxation—that is what it amounts to when you grant this reduction—then I say to you that you do a much more extreme thing with reference to the income tax.

What are the facts about the income tax? We have reduced that tax from 65 per cent down to 40 per cent maximum in the present law. Now we propose to reduce it to 20 per cent maximum tax in this bill that has passed the Senate. Under the present law there has accrued to the Government a maximum tax of 40 per cent upon the incomes of the citizenship of this country made during the year 1925. The tax is due; it has accrued; it accrued under the present law, the law that we are amending here to-day. Not a cent of it has been paid yet. The only thing necessary is, when the returns for 1925 are made, to fix the amount that is due. Now, what do you propose to do with reference to incomes? You cut their tax in two, and you provide that that reduction shall be retroactive so as to include the income of every individual taxpayer in this country for 1925. And how much revenue do you lose by that retroactive provision with regard to the income tax? Eighty-five million dollars? No; you lose $213,000,000, and all in one year; and not a man who is now opposing this retroactive estate-tax provision made a protest against sticking our hands in the Treasury of the United States and drawing out $213,000,000 and making a present of it to the income-tax payers of 1925. You made no objection to that.

I will say to the Senator from Washington that if he can differentiate these two cases, the one from the other, he is a very smart man. They stand absolutely upon all fours in fact and in argument, except that the income-tax payer gets the advantage by reason of the fact that his tax has been reduced one-half, and the estate tax is reduced only 15 per cent.

Oh, but they say: "That is for the benefit of the big taxpayers"—these 25 great hoary-headed monsters of finance that the Senator from Washington has so beautifully and so picturesquely described here. Twenty-five great millionaires? No; let me say to the Senator that that estate tax at present reaches 13,000 taxpayers for the year 1925, and 6,000 of those 13,000 returned incomes of less than $50,000, and we relieve them, every one of them.

Mr. DILL. Mr. President, if the Senator will yield, I am not criticizing that.

Mr. SIMMONS. And then nearly 3,000 more returned incomes of between $100,000 and $150,000. They are not in this class. That bill, if the Senator pleases, is so drawn that it catches the millionaire, as it did not catch him in the Senate provision, and it left out the little man; and yet the Senator who is the champion of the little man stands up here and opposes it!

Mr. DILL. Mr. President, will the Senator yield now?

Mr. SIMMONS. Yes.

Mr. DILL. The Senator did me the credit to say that I talked about these great estates, but I did not.

Mr. SIMMONS. No; I did not say "the Senator from Washington"; I said "the Senator from Nebraska."

Mr. DILL. The Senator said "the Senator from Washington" when referring to these 25 great estates.

Mr. SIMMONS. Yes.

Mr. DILL. I did not do it; but since the Senator attributed it to me, I hope he will give me a moment while I do it.

The estate of Mr. Anderson, which is to go to his widow and orphans, is nearly $5,000,000.

The estate of Mr. Ayer is $9,500,000.

The estate of Mr. Begg is $40,000,000.

The state of Mr. Benjamin is $14,000,000.

The estate of Mr. Clark is $40,000,000.

And so they run, as high as $75,000,000 in the case of Mr. Duke, and $54,000,000 in the case of Mr. Palmer. Those are the estates as to which the Senator is so concerned about the widows and orphans.

Mr. SIMMONS. No; those are the estates that are still taxed.

Mr. DILL. You catch them by a retroactive provision that gives away $85,000,000.

Mr. SIMMONS. No; I was not talking about the retroactive provision then. I was talking about the estate tax which the Senator championed. These big millionaires are both in the estate-tax schedules, and they are also in the income-tax schedules. They are a little bit more heavily in the income-tax schedules than they are in the estate-tax schedules. They pay twice the amount of tax upon their annual incomes that they pay in lump sum upon their estates. What this retroactive provision does is to relieve their estates, together with the estates of the lower taxpayers, of 15 per cent of that 40 per cent of taxation. That is all it does for them; it relieves them of 15 per cent; but the Senator does not take exception to the fact that when he voted for the income-tax provisions of this bill he relieves them not of 15 per cent but of 50 per cent of their taxes.

Mr. DILL. But I did not vote for the reduction of 50 per cent in the income taxes on incomes of over $100,000. The Senator's coalition forced that over.

Mr. SIMMONS. I do not know what the Senator voted for. Sometimes, it seems to me, he votes rather erratically, and I do not know what he did in this case.

Mr. DILL. The Senator meant democratically, not erratically.

Mr. SIMMONS. I will say that I was speaking of the whole Senate, then, if the Senator objects. The whole Senate, when it comes to these rich men, has by retroactive provision covering the whole year of 1925 relieved them of 50 per cent of the income tax that has accrued under the law of 1924 and is due the Government to-day; and they swallowed that without any sugar coating, Mr. President. They swallowed it without groaning or grunting and without complaining; yet when we ask them to apply the same system to the widows and orphans of those who are dead, and give them not a flat reduction of 50 per cent but a reduction of 15 per cent, they gag and say, "We can not do it."

Then, Mr. President, there has been a propaganda started here in the Senate by certain gentlemen who are so much averse to a man's accumulating much money in this world that to speak about a millionaire in this presence is to them like flaunting a red flag in the face of an angry bull.

Mr. NEELY. Mr. President, will the Senator yield?

Mr. SIMMONS. Yes.

Mr. NEELY. Does not the Senator think that the millionaires have been fairly well treated in the bill that is before the Senate?

Mr. SIMMONS. They have been treated like everybody else. They have been treated just the same as they were in the act of 1924. I explained that fully the other day and showed the facts.

It has been charged that this retroactive provision was in the interest of the Duke Foundation, of the King estate, or some other big estate; and the impression has been created throughout the country that these great estates are the ones to be benefited by this reduction, and that they are the only beneficiaries of this liberal action on the part of the Senate. No, Mr. President; the same benefits to the Duke Foundation that are in this bill will be accorded to every estate-tax payer in the United States. It gets the same benefits that the humblest taxpayer under the law gets, that and nothing more. Although that money must come out of a charity, it will come. They are not asking to be relieved of the tax on the Duke estate because it has to be paid out of the charity fund. They are ready to pay that. They want a reduction, but no greater reduction is asked for and no greater reduction is accorded them in this bill than is accorded the humblest taxpayer in the list of estate-tax payers.

Before I take my seat, I want to say that under the circumstances I assume the Senate will not recommit this bill. But if the motion to recommit shall be carried, as one of the conferees I will take the action seriously. I will understand that the Senate means to cut the inheritance tax off, or to have no bill. I say that so that the country and the Senate will know the attitude in which we would be placed.

Mr. NEELY. Mr. President, I send to the desk a motion, which I wish to submit.

Mr. REED of Pennsylvania. May we have it read?

The VICE PRESIDENT. The clerk will read it.

The CHIEF CLERK. The Senator from West Virginia [Mr. NEELY] moves to recommit the bill (H. R. 1) to the committee of conference with instructions:

First. To insist upon Senate amendment No. 108 repealing existing taxes and dues on tickets of admission to theaters and other places of amusement; and

Second. To insist upon Senate amendment No. 109 repealing the tax of 3 per cent on the selling price of automobiles.

Mr. NEELY. Mr. President, in spite of the eloquent and able defense of the oppressed and unhappy millionaires just made by the illustrious Senator from North Carolina——

Mr. SIMMONS. Mr. President, I repudiate the statement that I have made any defense of the millionaires of the country. The Senator is making the statement without any justification in fact.

Mr. NEELY. If that statement is offensive to the Senator from North Carolina, I amend it and say that in spite of his encomium upon the provisions of the bill which he has discussed, every Member of the Senate and everyone else knows that the pending measure is more favorable to the very wealthy than it is to the meek and the lowly.

We have given most to those who need it least and least to those who need it most. Let us restore the Senate amendment, sacrificed in conference, to the end that the masses of the people, the "hewers of wood and the drawers of water," may be enabled to go to the theaters, to the ball games, and to all other innocent amusements without paying a Federal tax on their tickets of admission.

Mr. REED of Pennsylvania. Mr. President, will the Senator yield for a question?

Mr. NEELY. Certainly.

Mr. REED of Pennsylvania. I should like to ask the Senator whether in his State the sons of the "hewers of wood and the drawers of water" pay more than 75 cents for admission to the movies?

Mr. NEELY. Under the present administration not many of them can. In the good old Democratic days everybody in West Virginia could go to the best shows and the most expensive places of amusement, but since the end of the Wilson administration there are unhappily very few of the class to which the Senator refers who are able to pay more than 75 cents for anything. But this administration will not always last. In the hope and belief that Democratic prosperity will soon return I wish to provide a tax-free admission to all places of amusement for the benefit of those who may survive this time of trouble and again become able to purchase tickets to shows and concerts costing more than 75 cents.

The second part of my motion is designed to relieve the millions of purchasers of cheap automobiles of the existing burden of 3 per cent Federal tax, which they are obliged to pay on every car they buy. As the able Senator from Washington has so clearly pointed out, we are in effect giving $85,000,000 to the owners of 25 big estates. Let us give $69,000,000 relief to the 10,000,000 people of the United States who ride in "tin lizzies"—the cars that are not luxuries but absolute necessities of every-day life—instead of giving $85,000,000 to the beneficiaries of 25 persons who have passed away.

Under the law of my State automobile owners are now paying a license tax for the privilege of operating their machines; they are paying a tax on every gallon of gasoline they consume; they are paying a tax or fee for a certificate of title; and they are paying a personal-property tax based on the value of their cars. They are paying enough taxes on automobiles, and the Federal Government should not add to their burdens. I hope my motion may prevail.

Mr. REED of Pennsylvania. Mr. President, if the motion of the Senator from West Virginia should carry, this bill would go back to conference with instructions to stand on the repeal of the admissions tax, which means $23,000,000 to $24,000,000 a year off the revenue of the United States, and it would mean the striking out also of $69,000,000 now received from the tax on the purchase price of automobiles, 3 per cent on the manufacturer's price of the automobile, a tax of about $7.50 on the average Ford touring car. It would mean a deficit in the Budget of the Nation of from $92,000,000 to $93,000,000 a year.

Understand, Mr. President, the adoption of this motion would make tax reduction this year impossible. It would deny the relief which this bill would bring to over 2,000,000 income-tax payers by striking down their taxes 100 per cent, because that is what this bill does. It exempts from income taxation entirely more than 2,000,000 persons who are paying income taxes to-day.

The Senator would do that, if you please, so that admissions to prize fights might be tax free, so that admissions to the great football games held here in the East in the fall might be tax free. He talks about the "hewers of wood and the drawers of water." How many "hewers of wood and drawers of water" go to the Yale-Harvard game or the Dempsey-what-is-its-name prize fight? How many "hewers of wood and drawers of water" go to the Ziegfeld Follies in New York and pay $6 for a ticket? Those are the people for whom the Senator from West Virginia appeals.

Mr. NEELY. Mr. President——

The VICE PRESIDENT. Does the Senator from Pennsylvania yield to the Senator from West Virginia?

Mr. REED of Pennsylvania. I yield.

Mr. NEELY. Will the Senator tell us what proportion of the beneficiaries of my proposal go to see Jack Dempsey and other great prize fighters, and what proportion of them go to the Yale-Harvard football game? Does not the Senator know that, at a rough guess, 99 per cent of the beneficiaries are those who go to theaters in their own home towns?

Mr. REED of Pennsylvania. On the contrary, I know nothing of the sort. This bill totally exempts from taxation admissions of 75 cents and under. The tax is paid by those who attend these great entertainments, thronged by the most prosperous people of this Nation, who can best afford to pay the tax. Eighty thousand or ninety thousand people will go to these great football games, and will cheerfully pay up to $5 or $6 a seat.

Mr. WALSH. Mr. President, will the Senator yield?

Mr. REED of Pennsylvania. I am glad to yield.

Mr. WALSH. I have been going to a few of the operas down at the Washington Auditorium. The gallery gods occupy the vantage points, most of them consisting of clerks and other employees in this town, who do not get salaries of more than $1,500 to $2,500 a year, and who are lovers of music. Will not the Senator include those also, as well as those who go to the prize fights and the Follies?

Mr. REED of Pennsylvania. Surely, I will include those, and those are the people to whom this bill carries the greatest boon. It exempts them wholly from the income tax. Yet the Senator will jeopardize their interests in that respect to give them this miserable pittance of 10 per cent on the tickets they buy to go to these places of amusement.

Mr. WALSH. I am simply indicating that the Senator has not completed his list of the beneficiaries when he mentions the people who go to prize fights and to the Follies. There are people who go to hear McCormack sing who are obliged to pay more than 75 cents. They would all pay the tax if we did not repeal this law.

Mr. REED of Pennsylvania. If they pay a dollar to go to hear him, they will pay a tax of 10 cents. And why should they not? Why should we not pay on our luxuries? The very wages earned by these people for whom the Senator's heart bleeds are exempted from taxation in this conference bill. Yet the Senator would jeopardize that—nay, he would do worse

than jeopardize it; he would wreck it—if his motion carries, all to save them that miserable 10 per cent on their entertainments. Which do they want, I ask? What would the people of this country say when they realized the price they were asked to pay for having this point scored on the conferees?

Mr. HOWELL. Mr. President——

The VICE PRESIDENT. Does the Senator from Pennsylvania yield to the Senator from Nebraska?

Mr. REED of Pennsylvania. I yield.

Mr. HOWELL. The Senator said that there would be a deficiency of about $93,000,000 if this were agreed to.

Mr. REED of Pennsylvania. I am trying to suggest it. I am almost asserting it.

Mr. HOWELL. Suppose we did not make retroactive the reduction on estate taxes heretofore charged on the books of the Treasury. Would not that take care of this deficiency for the first year?

Mr. REED of Pennsylvania. On the contrary, it would not take care of one-sixth of it. That reduction, as was explained while the Senator was out of the Chamber, makes a difference of less than $15,000,000 in this fiscal year.

Mr. HOWELL. I beg the Senator's pardon——

Mr. REED of Pennsylvania. The Senator may, if he wishes, but the figures are established.

Mr. HOWELL. About $415,000,000 is yet to be paid on account of assessed estate taxes under the 1924 and previous acts. You will reduce this $90,000,000 when you put into effect this retroactive clause.

Mr. REED of Pennsylvania. We will reduce it $85,000,000, and it will be spread out over seven years.

Mr. HOWELL. It will be spread out over seven years; but you are going to relieve those who have been already taxed and take out of the Treasury, take off of the books, $85,000,000. It is $90,000,000, as a matter of fact. But you say now that if this resolution should prevail the first year there would be a reduction of $93,000,000 in our income.

Mr. REED of Pennsylvania. Precisely.

Mr. HOWELL. But if we do not make retroactive a tax reduction on these estates that have been assessed under the 1924 law there will remain a credit on the books almost equal to this reduction for one year.

Mr. REED of Pennsylvania. Of course, spread out over seven years it would amount to something less than $85,000,000. Probably with the 25 per cent credit it would be nearer the $68,000,000 the actuary has figured.

Mr. HOWELL. Just a moment.

Mr. REED of Pennsylvania. The deficit that year, under the proposal in the pending motion, will be $93,000,000.

Mr. HOWELL. But there will be a charge on the books to cover it.

Mr. REED of Pennsylvania. You can not pay for the baby's shoes with credits on the books. The Government has to get the money, and it has to get it this year.

Mr. HOWELL. But the Government is not so closely run that it can not extend over a period of four or five years the payment of this $90,000,000.

Mr. REED of Pennsylvania. If the Senator can spread $85,000,000 over seven years and make it cover an annual deficit of $93,000,000, he ought to be in the Treasury Department.

Mr. HOWELL. Furthermore, you are in this tax bill providing a reduction of about $100,000,000 per annum in estate taxes on the great estates of this country which could be otherwise collected the coming year. The total that might be charged—not collected, but charged—on the books of the Treasury would amount to about $150,000,000 under the present law, and I have just been informed by the chairman of the Ways and Means Committee of the House that the 20 per cent reduction in the estate taxes provided in this pending bill will reduce that possible charge in the neighborhood of $105,000,000 a year.

Mr. REED of Pennsylvania. The total result of all the changes that have been made in the estate tax will operate to reduce the revenues in the fiscal year 1927 by less than $15,000,000.

Mr. HOWELL. But just a moment——

Mr. REED of Pennsylvania. It is my time in which we are talking, and I ought to be allowed to finish each sentence. I do not mind being interrupted at the periods, but I dislike it at the commas. [Laughter.]

Mr. SIMMONS. Mr. President, if the Senator from Pennsylvania will pardon me——

Mr. REED of Pennsylvania. Certainly.

Mr. SIMMONS. I was going to suggest that if the Senator from Nebraska is looking for revenue and will strike out the retroactive provisions of the income tax section, he will get $213,000,000.

Mr. REED of Pennsylvania. Of course, the greatest piece of retroactive reduction that we have made has been the retroactive reduction on incomes earned during the year 1925, and there seems to be a certain amount of enthusiasm for it among about 100,000,000 people of the country, all of which is jeopardized by the present motion which is offered for the sake of the purchasers of automobiles who are going to get a 40 per cent reduction in the bill as it stands, their tax being reduced from 5 per cent to 3 per cent, and for the people who go to prize fights, to the expensive plays, to football games, and other entertainments, and which the Senator seems to think should be favored in preference to the wages of the people of the country.

Mr. SIMMONS. If the Senator will allow me again, the conferees on the part of the House, who held hearings on the automobile tax provision, told us that the automobile people who came before them said to them, "If you will take off 2 per cent of the tax, we will be satisfied and we will agree not to ask for any more reduction either in the House or in the Senate."

Mr. REED of Pennsylvania. I am glad the Senator reminds us of that. That was their agreement in the House hearings.

Mr. SMOOT. And that was the agreement also with the representatives of the automobile industry who came to my office.

Mr. DILL. Mr. President, I want to ask the Senator from Pennsylvania a question bearing back upon the retroactive provision of the estate tax which he was discussing with the Senator from Nebraska. As I understand it, there were no hearings had, either before the House committee or the Senate committee, urging that the retroactive provision should apply to estate taxes?

Mr. REED of Pennsylvania. On the contrary, there were representatives from practically every State in the Union who appeared before the Ways and Means Committee and urged the absolute repeal of the tax in the future, and emphasized the utter unfairness of the postwar increase in the tax which was made by the act of 1924.

Mr. DILL. But the witnesses, or those appearing, did not argue for the retroactive provision as to those particular rates, did they?

Mr. REED of Pennsylvania. They pointed out the unfairness of them. I do not remember the evidence literally. I do not remember that anybody suggested that particular provision.

Mr. DILL. May I ask the Senator whether there were any executive meetings or hearings held regarding the retroactive clause that was put in the bill by the Senate Finance Committee?

Mr. REED of Pennsylvania. All of the hearings of the Senate Finance Committee were in executive session to that extent.

Mr. DILL. The reason why I asked was that I know there were at one time a number of attorneys here representing the big estates who were very anxious to have the retroactive provision incorporated. I find nothing in the Finance Committee hearings showing that they appeared before the committee.

Mr. REED of Pennsylvania. Not a single one of them appeared. The Senator wants to know where the suggestion originated.

Mr. DILL. That is what I am getting at.

Mr. REED of Pennsylvania. I say there were hundreds of witnesses who came before the Ways and Means Committee and testified to their opinion as to the utter unfairness of the raise to 40 per cent under the act of 1924. Either some of them suggested the idea or else it occurred spontaneously to some member of the Ways and Means Committee, because when that committee acted they put in the retroactive repeal which the Finance Committee of the Senate also put in. Somebody suggested it, but I do not know who. Probably a great many people thought of it, because a great many people realized the unfairness of it.

Mr. DILL. It really was a provision written in by the committee?

Mr. REED of Pennsylvania. First by the Ways and Means Committee and then by the Finance Committee.

Mr. SMOOT. Mr. President, on the estate tax I have asked the Actuary of the Treasury to give me exact figures for the revenue that would come from the 1924 act, from the bill as it passed the House, from the bill as it came from the conference, and the reductions under the present law. It shows that there would be a reduction of $15,000,000, just as we have stated on the floor several times to-day.

Mr. TRAMMELL. Mr. President, it is not my purpose to detain the Senate very long in a discussion of the action of the conferees. I feel that in many respects the pending bill contains very wholesome and desirable tax reductions, reductions which I have advocated and supported. I also approve most heartily of the provisions for a larger exemption than we have had under the present law. For a number of years I have held that those with small incomes should not have an income tax levied upon them until sufficient of their earnings had been made exempt to enable them to earn a livelihood and provide a comfortable support for their families. This bill has gone further in that direction than any measure we have heretofore considered, making an exemption of $3,500 for the heads of families and $1,500 for single persons, with further exemptions on account of minors, and also a certain percentage of reduction on account of earned income. This feature of the bill and its very substantial reduction of income taxes on all ordinary incomes meet with my most hearty approval.

The question of an inheritance tax is a problem upon which I realize there may be an honest difference of opinion. While I voted for a repeal of the inheritance tax, I do not hold to the contention that there is anything particularly sacred about inheritances which in time of need for revenue should entitle them to exemption from taxation, especially when the Federal Government is reaching out its hand and going in all directions to gather revenue for its maintenance. I have no quarrel with those who may honestly believe that the Federal Government should impose an inheritance tax. But in connection with the subject of an inheritance tax there have been written into the bill provisions which were in it when it came from the House, provisions which, in my opinion, transgress the cherished principle of State rights, which attempts to dictate to the States and to coerce the States into formulating their taxing system in accordance with the wishes of at least a majority of the Members of the Federal Congress. This action on the part of the Congress will, in my opinion, in the future come back to plague those who support it now.

The bill contains a provision which provides that 80 per cent of the inheritance tax paid to the Federal Government shall be refunded to the taxpayer if he pays a State inheritance tax or estate tax equal to 80 per cent of the Federal tax. Even were it not for the discussion which has taken place in the other House and upon the floor of the Senate, any person could well read between the lines and understand the object and the purpose of any such provision in the pending measure. The average 15, 18, or 20 year old boy in school would know that it was for the purpose of controlling and dominating the States upon the question of inheritance tax. When Congress invades the State's right to adopt its own system of taxation, then we are getting without the pale of authority or the proper function of the Federal Government. Congress is guilty of trespassing upon the functions and the rights of the States. Had this policy arisen on account of a general condition existing in the country that the public mind seemed to think required remedy or relief, or if it were for the purpose of trying to adjust conditions in all the States of the Union, not merely one, it would be a little more pardonable and less reprehensible.

But we all know well why the 80 per cent clause was written into the law. Last year and the year before and for several years past there has been a great tide of immigration from other States to the State of Florida. There has been a marvelous growth and development in that State. Men and women have gone there from throughout our entire country. They have gone there on account of the advantages and opportunities which they thought they would enjoy by changing their domicile to the Sunshine State. They have gone there as pleasure seekers and as home seekers by the hundreds of thousands. That State has enjoyed a prosperity and growth unequaled throughout all the history of the country, and this fact seems to have impressed some Congressmen and some Senators with the idea that Congress must belittle itself and attempt to check the tide of immigration to Florida and if possible retard the growth and development of the Peninsula State.

It seems that it appeared to them that the only convenient method of trying to check Florida at the present time was to write a clause into the tax bill, which by indirection was intended for no other purpose than a step toward the control of State taxation by the Federal Government. These foes of State rights said:

> We will write a clause into the bill and try to make every State in the Union impose an inheritance tax. To encourage and coerce them we will reimburse for State inheritance taxes to the extent of 80 per cent of the amount of the Federal tax.

The target is Florida. Not merely because my State has no State inheritance tax but primarily because of its wonderful growth. Why such concern about Florida, the land of sunshine, of enchantment, of untold resources, of opportunity, of happiness and prosperity.

As a matter of fact, as I have stated before in the Senate, the remarkable growth and development of Florida began long prior to the adoption of the State constitutional amendment exempting inheritances from tax. This growth and this prosperity of Florida reaches back for a quarter of a century and has only been accentuated within the past few years. Men of forethought and business acumen have appreciated the opportunities of Florida for more than a third of a century. That was demonstrated when a man of great business acumen and foresight and forethought like Flagler went into Florida to build his road on the east coast, and when Plant went into Florida to build his road on the west coast. At that time the State was comparatively a wilderness. They realized the possibilities and the opportunities there, and that some day their enterprises would prove possible and perhaps profitable, and that the State would grow and develop, and that it was a great field for their capital and their investment.

Their visions, their dreams came true.

In the sections of the State where railroads have penetrated through the wilderness we have to-day prosperous, modern, attractive, and wonderful cities and towns. Throughout the agricultural districts of the State there has been a marvelous development until to-day Florida—portions of which 25 years ago were a wilderness—is shipping into the markets of this country about $180,000,000 worth of products which have been grown upon her soil. To-day we are sending into the markets of the country approximately $175,000,000 worth of manufactured products. We are marketing $20,000,000 worth of phosphate, $20,000,000 worth of fish, $45,000,000 worth of naval stores, and large amounts of other products.

Florida rivals if it does not excel any State in the Union, in its colleges, its public schools, and its system of State and county highways. It leads in its fine and modern hotels. To-day it is building more hard-surfaced public roads than is any other State in the Union having anything like the same population or wealth. There is decidedly more new railroad construction in Florida than in any other State in the Union. The State is building upon a substantial and permanent basis.

While the adoption of the constitutional provision exempting inheritances from taxation in our State may have induced, and I hope that it has induced, some capital to come into the State, that has not been the moving or the actuating cause in bringing about Florida's extraordinary growth and development. We have there great natural resources; we have there splendid opportunities; we have there the beautiful, attractive scenery of rivers, of lakes, of hillsides, of magnificent groves, of beautiful farms, a land of palms and pines, and among the most beautiful and attractive cities that may be found throughout the country.

There is no State in the Union where there is a greater opportunity for a poor man to go and earn a livelihood and accumulate a competency. While the average yield per farm acre throughout the United States is only $15 per acre, the yield in my State is $225 per acre. So, there are some other reasons outside the question of exemption of inheritance taxes why Florida is growing and will continue to grow despite the fact that Congress may seek to check that prosperity by trying to interfere with our State taxation system.

God gave us the sunshine and the mild, congenial winter climate. He gave us untold resources. Man can not rob us of what God gave us.

If it be right to provide that a certain part of the inheritance taxes shall be refunded, then, with equal justice, we may provide that a certain percentage of the income tax shall be refunded to the States. We may take the automobile-tax schedule as imposed by the measure; and if some States think they may get some advantage, we may provide for a refund of that tax back to the States. We may say, forsooth, "Detroit, Mich., is the great automobile manufacturing center of the country; we are a little bit jealous; we do not like that; they have had a wonderful growth in Detroit. Let us see if we can not in some way try to break up the automobile manufacturing industry in Detroit. We are sending money there from all over the country, and can we not have it disseminated and scattered throughout the country?" So Congress might become so little as to go to work and try to manipulate and control things in regard to the automobile industry which has centralized in Detroit.

So far as I am concerned, I have no objection to the prosperity of Detroit. I rejoice in the prosperity which the people

have enjoyed in that city. It is in the case of Florida that Congress has assumed to dominate, influence, and coerce the State in its taxation system and to interfere with it because people are migrating into the State from throughout the Union. This they have a right to do, and by doing so display wisdom. They are free-born Americans; they may go and visit and enjoy the winters and the pleasures of Florida, with her attractions, and it is their own business. They may go to Florida and spend their money in building homes, for making desirable investments, or however they may wish, and it is none of the business of Congress; yet Congress will attempt by measures such as this to control and dominate the policy of a State's taxation system.

Now, just contrast the picture. Within the past two decades, I will say, Congress has very generously run its hand into the Federal Treasury and provided millions and hundreds of millions of dollars for the purpose of reclamation in the West; for the purpose of trying to develop a condition there which would attract and cause people to migrate there from other sections of the country.

In that instance Congress has even spent money for the purpose of trying to develop vast areas and trying to move people from other sections. So far as I am concerned, I have not opposed such a policy. I have no jealousy and no envy of those States which may have gotten those appropriations or of the development and settlement which may have followed as a result. I have been delighted to see the progress that the people have been making in those arid-land reclamation projects; but in that instance Congress has used its power to provide money to try to induce people to move away from certain other States in the Union and to take up residence there, to transplant them, start them off, and induce them to be settlers in that locality, while, on the other hand, Congress in the present case is going out of its way, doing something that has never yet been done by a Congress, in that it is about to enact a measure for the purpose of controlling the States in their taxation policies, and the negro in the woodpile is to try to retard Florida's growth. This will not be accomplished.

I know the stage is all set; I know what is going to happen—the conference report is going to be adopted, but I very much regret that a majority of the Senate and a majority of the House should see proper to take any such action. I can not feel that a majority of the Senate, if the question were to be considered anew on its merits, would agree to any such policy. I know the die has been cast; it is too late to accomplish anything, but I wish to enter my protest against this piece of legislation, which is an attempt to dictate the taxation policies of the different States, aimed particularly, of course, at the State of Florida, Florida being the target in this instance.

If Florida had not been so prosperous, if her bank deposits had not increased from $250,000,000 to over $1,000,000,000 last year, if her post-office receipts had not increased more than 80 per cent last year, if Florida had not led in the number of automobiles purchased, and had not led in the United States in the percentage of increase of income tax paid during the last year, if in her building program she were not excelling all other parts of the Nation, the program being over $330,000,000 last year, we would never have heard of any such provision as this. The State's advance continues, however. In January the building permits were $25,000,000. I can not help but feel that it is a most reprehensible piece of legislation, and I deplore that anything of the kind should be attempted.

Some day we will have some other measure here that will touch upon the taxation system of some other State. Other States can adopt policies which they believe will attract and induce people to come within their borders to help them develop and to grow and to utilize the resources and the opportunities which have been given to them. Some may say, "We exempt a certain amount of real estate from taxation"; others may say, "We support our Government entirely by license taxes"; and they pride themselves on the fact that they have no ad valorem tax imposed on real estate; but what if they do? That is none of the business of Congress. It is a State question pure and simple; and it is not for Congress to interfere with or attempt to outline the taxing policy of any of the States. It is this effort on the part of Congress as written into this provision that I protest against, Mr. President, most vigorously. I am strongly for most of the tax-reduction provisions of the pending bill, and wish the reductions could be even larger, but I am emphatically against the 80 per cent inheritance tax refund provision.

Mr. BRUCE obtained the floor.

Mr. HOWELL. Mr. President——

Mr. BRUCE. Mr. President, I will yield to the Senator from Nebraska. I understand he desires to address himself to the pending question.

Mr. HOWELL. Mr. President, I am opposed to sales taxes. I believe that it is a form of tax that does not take into account ability to pay. For that reason I am in favor of the motion of the senior Senator from West Virginia [Mr. NEELY]. I trust that this measure will be recommitted to the conferees, not only in the hope that the sales tax referred to in his motion may be repealed but that other taxes may be replaced upon those who have ability to pay.

If it were not for the situation of the United States to-day I would not necessarily oppose this tax bill, but we are confronted with a situation that has so long been before us that we seem to ignore it. I made the statement in some remarks several days ago that the great war is not over. It is over for the contending armies on the battle fields of France, but the World War is not over so far as paying for it is concerned. There are two great factors in war. The first is man power, and the second is wealth. It is the duty of those composing the first factor to lay down, if necessary, their lives on the battle field. The duty of the second factor, wealth, is to pay the bills. A soldier may go home after peace is declared. He has made his sacrifice. Wealth, however, has then just begun its part. Then it is that wealth—if it ever gets in the breach as a result of war—performs a laggard duty, paying the debts of war.

Mr. President, we are in the midst of the great World War to-day, so far as paying debts and other war liabilities are concerned. Last year, on account of interest on our great war debt, on account of the sinking fund for that debt, on account of veteran relief, and on account of adjusted compensation, we were called upon to pay $1,678,000,000. That you may understand that we are still in the midst of paying for this war, let me say that the average of these liabilities paid for the last four years was $1,682,000,000, or only $4,000,000 more than the amount we were called upon to pay last year.

In other words, this $1,678,000,000 is a measure of the war liability that this people must carry for years to come. It is twice what it cost to operate this Government in 1914, excluding post-office receipts. It is about $15 for every man, woman, and child in the United States to-day; and yet, Mr. President, under this bill we are letting out great wealth from under this great burden. Under this bill wealth is allowed to scuttle.

There were about 4,090,000 taxpayers last year. Five thousand of those taxpayers are relieved for the coming year, under the provisions of this bill as it has come back from the House, to the extent of about $259,000,000 on account of personal income taxes, estates taxes, and gift taxes alone. Now, mark you, I say that under this bill a class of 5,000 taxpayers are relieved of $259,000,000 in taxes on account of the three kinds of taxes I have indicated, and the remaining class of taxpayers, 4,085,000 of them, are relieved of but $162,500,000. Five thousand over here are relieved of $259,000,000; 4,085,000 over there are relieved of $162,500,000.

I made the statement the other day before the Senate that this was a millionaire's tax bill. It is not; it is a multimillionaire's tax bill. The 5,000 class that are being relieved from these taxes have incomes of $100,000 a year or more.

Mr. SIMMONS. Mr. President, I think the Senator has his figures a little bit mixed up. I think there were 7,000,000 taxpayers in this country.

Mr. HOWELL. Mr. President, I was corrected the other day when I stated that there were over 7,000,000. There were seven million and some hundred thousand income-tax returns made, but I was informed from the floor that the number of taxpayers was 4,090,000.

Mr. SMOOT. That takes into consideration the fact that this bill relieves 2,350,000 taxpayers from the payment of any tax whatever.

Mr. HOWELL. No; as I understood, the statement was made here that last year, not considering this bill, there were some 7,000,000 income-tax returns and there were some 4,090,000 taxpayers.

Mr. SMOOT. Yes.

Mr. SIMMONS. That is not the way I understand it.

Mr. SMOOT. They have to make returns if they have over $1,000 income, but they do not all pay taxes because of the exemptions.

Mr. SIMMONS. Of the 7,000,000 who make returns, as I understand, under the personal exemptions allowed in the House bill two and a half millions will not pay taxes this year. Of course, they are the small taxpayers. When the Senator comes to the estate tax of the 13,000 who now pay the

tax, there will be 6,400 who will hereafter pay no tax by reason of raising the exemption from $50,000 to $100,000.

Mr. HOWELL. Mr. President, in order that I may make myself clear——

Mr. SIMMONS. But will not the Senator permit me to interrupt him further?

Mr. HOWELL. Certainly.

Mr. SIMMONS. The Senator has said that this is a bill to relieve wealth. I have contended all along that this bill apportioned taxes between the different classes just exactly at the same ratio that the bill of 1924 did, but I want to call the Senator's attention to this matter in connection with his statement:

Under the present bill, a man with an income of $50,000 will pay a tax—that is, normal and surtax together—of $14,089. A man with an income of $1,000,000, which is twenty times that—he has twenty times the income of a man of $50,000—will pay a tax of $118,497. He has twenty times as much income, but he pays 65 times as much tax. When you go up to an income of $100,000, a man with that income will pay a tax of a little over $7,000, while a man with an income of $1,000,000—which is only ten times as much—will pay a tax of $118,497. He has ten times as much income, but he pays twenty times as much tax.

Mr. HOWELL. But, Mr. President, I would call the attention of the Senator from North Carolina to the fact that under this bill the tax paid by the taxpayer with an income of $5,000,000 is reduced about $1,087,000. That is a provision of this bill. The only way in which great wealth can contribute toward the Great War is with goods and chattels and funds; and, as I have stated, that war is not over, and they ought still to contribute. We are, however, letting them out from under, with what result?

Mr. President, this bill clearly indicates a policy to transfer this tremendous war liability to the shoulders of the masses of the people, to be paid ultimately by indirect and sales taxes. That is what it means. That is the policy underlying this bill, and that is what I protest against. I believe the United States should rapidly amortize its war liabilities. We do not know what the future has in store. In justice to the Nation we should not relieve great wealth from its present contribution toward the cost of the war, saddling such burden upon generations to come. We ought to pay now, not merely as a matter of justice but that we may be prepared for another emergency that may confront us long before we have any notion at this time.

Mr. SIMMONS. Mr. President, did the Senator vote for the inheritance-tax provision of the House bill?

Mr. HOWELL. Mr. President, the Senator from North Carolina made a gallant fight against the lowering of surtaxes in 1924, and I joined him in that fight.

Mr. SIMMONS. I was asking the Senator, however, if he voted for the inheritance-tax provision of the House bill.

Mr. HOWELL. No, sir.

Mr. SIMMONS. Did the Senator vote against the estate tax? I am speaking now of this bill.

Mr. HOWELL. I voted for an amendment increasing the estate tax, and I voted against the bill when it came up in the Senate for final passage.

Mr. SIMMONS. But the Senator did vote with the senior Senator from Nebraska [Mr. Norris] for the House estate tax?

Mr. HOWELL. I can not recall the particular votes, but I may have voted with the senior Senator from Nebraska [Mr. Norris] for a lower rate in connection with the estate taxes, hoping we might save something from the wreck in the Senate inasmuch as the Senate seemed intent upon repealing the estate tax entirely.

Mr. SIMMONS. The Senator voted against repealing the estate tax and turning it over to the States and voted for the House reduction of estate taxes?

Mr. HOWELL. I can not answer that question without referring to the RECORD.

Mr. SIMMONS. I think the Senator did.

Mr. HOWELL. But I was opposed to any reduction in the inheritance tax, and that was my attitude during the entire period the bill was under consideration.

Mr. SIMMONS. But the Senator did vote for the House provision on inheritance tax?

Mr. HOWELL. No.

Mr. SIMMONS. I think the Senator did.

Mr. HOWELL. Possibly so, but I can not answer that question without reference to the RECORD.

Mr. SIMMONS. Now the Senator is making the point that we ought to keep up these taxes, because we need the money to pay the war expenses that have not yet been liquidated. Did the Senator ever take into consideration the fact that the House bill upon its face levies only a very small inheritance tax for the benefit of the United States? It provides for a 20 per cent rate, but it provides that 16 per cent of that shall go to the States. It reserves to the Federal Government only 4 per cent; and it is a fact, not disputed, that it takes 2 per cent of that to collect the tax. So that the inheritance tax which the Senator is favoring for the purpose of getting money to pay the expenses of the war levies a net tax of only 2 per cent for the benefit of the United States Government.

Mr. HOWELL. Mr. President, I was opposed to the House bill provision respecting the inheritance tax as it came here. I submitted an amendment, which was printed, to maintain the inheritance tax at the point where it now is in the 1924 law. I finally voted against the tax bill, and I am now here protesting against the House provision. I believe that we ought to pay our debts. I believe we may be confronted with a serious situation in the world long before we now realize; and then, Mr. President, as I called to the attention of the Senate the other day, we are confronted with the cancellation of every foreign debt that thus far has been settled by the United States Foreign Debt Commission.

These cancellations amount to $7,715,000,000, and, moreover, we are not to receive, all told, from the 11 foreign countries enough to even pay 4¼ per cent interest upon these 11 debts, to say nothing of principal. The people of these United States are required to add about $106,000,000 every year to what these nations have promised to pay in order to equal the interest payable by us upon the 4¼ per cent Liberty bonds and other bonds outstanding that were issued to make these loans.

Confronted with these cancellations, confronted with this continuing interest deficit, confronted with an annual payment of about $1,678,000,000 on account of the direct war liabilities, with all this before us, we ought not reduce taxes at this time upon great estates and huge incomes. We should not in this bill provide that a man with an income of $500,000 shall be relieved of $1,087,000 income taxes, and that is what this bill does.

Something has been said about receipts from estate taxes being only $15,000,000 less because of the proposed reduction in the estate tax. This statement should not be confounded in the minds of Senators with charges on the books of the Treasury, and I can not believe it is. Every year estate taxes are charged on the books of the Treasury. They may not be collected for several years thereafter, but every year they are charged, and this year, under the 1924 law, there would be so charged about $150,000,000 on account of estate taxes alone. Under this tax bill as it went to the House the provision for every dollar of this tax was repealed. From this time forward, had the Senate bill become the law, no such charges would have been made thereafter upon the books of the Treasury. Under the bill as it returns from conference $105,000,000 of that $150,000,000 will be wiped out and no longer charged annually upon the books of the Treasury. We are repealing to that extent this estate tax.

Who pays these estate taxes? Sixty per cent of this $150,000,000 of the estate taxes are paid by those who in life enjoyed incomes of $100,000 a year or more, belonging in that class of 5,000 to whom I have referred.

Nor is that all. We have already charged upon the books of the Treasury on account of estate taxes already assessed an amount equal to about $90,000,000, and under this bill it is provided that the interested estates shall be reassessed under the provision of the 1921 law. This means the cancellation or refunding of this $90,000,000, and nearly $60,000,000 thereof inures to the 5,000 class; that is, those who in life enjoyed incomes of $100,000 or more.

So these 5,000 people, taxpayers, are the real beneficiaries of this tax bill. It is, indeed, a multimillionaire's tax bill. Do Senators think the people of the United States will not understand that ultimately? They will know, they will understand, exactly what has been done. It can not be hidden under a bushel.

Under the circumstances, therefore, I sincerely trust that this bill will be recommitted, that it be sent back to the conferees, and an opportunity given once more to wipe out these sales taxes and to restore the estate and surtaxes, in order that we may pay our war debts and the war debts of those European nations whose obligations we have agreed to cancel.

I believe the safety of the Nation depends upon it. France began in 1815 with a debt of 1,200,000,000 francs, and from that time she adopted the policy of deferring the payment of her debts. The Great War came, and what is the situation of France to-day?

Mr. President, so much depends upon this great Nation and its influence in the world that we should ever have not only an Army and a Navy but we ought to have our finances in such condition that no one could question our ability to meet any emergency. Our surplus last year amounted to only about 10 per cent of our gross income. As a business proposition, should we run closer than that, in view of our tremendous obligations? We have been told by one of the members of the Finance Committee that if we cut $93,000,000 from this bill, as proposed in the pending resolution, we will be confronted with a deficit.

With the cancellation of these European debts, not only 11 of them, but ultimately every one of them—it will be found that we will cancel all of them—with these cancellations, and, in addition thereto, with this great debt for our own part in the war, do Senators think we ought to run as closely to the shore as that? I do not believe it is good business. It is not the way the great corporations succeed. It makes no difference whether it is a private or a public enterprise, whether it is an individual or a corporation, respect is measured largely by financial resources, and that applies to a nation in the political world as well as to a commercial concern in the business world.

Therefore, Mr. President, as there is this last opportunity to send this tax bill back for amendment, I trust the pending resolution will prevail.

Mr. BRUCE. Mr. President, it is my intention to invoke the indulgence of the Senate for only a few minutes, but, entertaining the view I do about one feature of the pending bill in relation to which this conference report has been rendered, it is impossible for me not to consume at least that much time.

It is a source of the sincerest disappointment to me that our conferees have not been able to obtain the assent of the House to the repeal of the estate tax, and I am bound to confess that I have not yet heard any sort of satisfactory explanation of the precise motives by which the House has been actuated in taking the position it has taken in regard to that repeal. Its motives certainly can not be revenue motives, because the Federal estate tax, as modified by the suggestions of the House, is likely, of course, to prove highly sterile in point of revenue. In other words, if the House had imposed a Federal tax on an estate without any drawbacks of any kind for the purpose of raising a sufficient amount of revenue, I could understand that; it would all be intelligible enough. Why it should take revenue with one hand and return it with the other, as the proposition of the House in relation to the Federal estate tax does, is something that exceeds my comprehension.

I am not in the least mollified, so far as my objection to the House proposition with regard to the estate tax is concerned, by the fact that the exemption of estates from taxation has been increased from $50,000 to $100,000. That means nothing to me. That has no sort of connection with the motives by which I was influenced when I did my best to promote the views which the Senate Finance Committee entertained in relation to the estate tax.

My idea was to have the estate tax shifted as a tax resource from the Federal Government to the State governments, and that was my only motive. Federal taxation is abating; State and municipal taxation is swelling. It seemed to me that the time had come when the Federal Government, with its enormous tax resources of one kind or another, such as import duties and income taxation, might be generous enough to turn over the estate tax to the States for the purpose of enabling them to meet the tax necessities of the States.

It appears to me that the House proposition would work out hopelessly unequal and illogical results. It draws an invidious line of discrimination between States in which there is no estate tax at all, and States in which there is an estate tax. It draws a most invidious line of discrimination between estates which do not amount to $50,000 and estates which amount to more than that. It also draws an invidious line of discrimination between States like my State, the State of Maryland, in which there is no inheritance tax except a collateral inheritance tax, and the States in which there is a general inheritance tax imposed upon husbands and wives and lineal descendants as well as upon collateral inheritances. As I view the House proposition there is an indelible impress of inequality, of lack of uniformity, of injustice on it. I never saw a thing in my life framed with so much elaborate artifice and ingenuity. So far as taxation is concerned the Federal estate tax would be nothing but a water haul. So far as creating a rankling sense of injustice and wrong, it would be a potent instrument for evil, indeed.

It strikes me that this estate tax proposition is an obnoxious and, to my mind, a monstrous—I use the term advisedly—invasion of the fundamental rights of the States. Will not somebody please tell me what right does the Federal Government propose to leave to the States? I have gotten to the point now that I feel that it is really unnecessary, idle, futile to raise my voice in remonstrance against any further spoliations of State sovereignty. When Dean Swift in his dotage had his attention called to a building near Dublin for the storage of powder and munitions, he composed these lines:

Behold a proof of Irish sense;
Here Irish wit is seen.
When nothing's left that's worth defense
We build a magazine.

And just as hopeless, it seems to me, at this late day is any protest against the further encroachment of the Federal power upon the rights of the States. That Government has, as I said the other day, by judicial decision, by acts of Congress, by constitutional amendments, thrust its aggressive hand into the very bosom of the States.

It has taken away from the States even jurisdiction in relation to such subjects as popular education, labor, infancy, and maternity, and most detestable of all it has resorted to a scheme of systematic bribery by its principle of 50-50 legislation for the purpose of inducing the States to surrender the comparatively limited measure of sovereignty that is still left to them.

Through the insidious operation of that system, the covetous jurisdiction of the Federal Government has even obtained control over such subjects as infant and maternal welfare and hygiene, disease, physical rehabilitation, national roads and trails, fire protection to the forested reserves of navigable streams, and so on. All of that was done by stealth, by covert indirection worthy of a better cause. And now in this detestable proposition of the House and Federal Government proposes to abandon artifices of that nature, and by force, by brutal, crushing coercion, to compel every State in the land to adopt a uniform system of estate taxation.

Here is the State of Florida that chose, in the exercise of its views of public policy, to adopt a constitutional provision doing away with any estate tax at all. Here is another State like my own in which there is nothing but a collateral inheritance tax. And now it is the purpose of the Federal Government to apply to every State in the Union, the State of Florida, my State, and every other State, its Procrustean theory of tyrannical uniformity. I resent it as an American citizen, and I would have been untrue to myself and to my profoundest convictions if I had not, to this extent at any rate, voiced my resentment.

Mr. LA FOLLETTE. Mr. President, at this late hour I do not desire to detain the Senate by a discussion of the provisions of the bill. I made my position clear in the debate when the measure was pending before the Senate. I do desire, however, to ask unanimous consent to have inserted in the RECORD at this point an analysis of the bill which has been made at my request by the People's Legislative Service and issued by them in the form of a bulletin.

The VICE PRESIDENT. Without objection, leave is granted.

The matter referred to is as follows:

THE COALITION REVENUE BILL OF 1926

"A BILL TO UNTAX WEALTH"

Secretary MELLON (a la King George the Fourth). There is a great deal to be said in favor of a tax that the subjects are accustomed to. (Testimony before Senate Committee on Finance, Sept. 8, 1921, p. 162.)

Secretary MELLON. I think this, that the ideal system of taxation, if it could be inaugurated, if you could do away with all the other taxes and make an equitable tax on all turnovers—all sales of real estate, goods, wares, and merchandise, everything—it would spread the burden of taxation as much as it can be spread, with the exception of some taxes like the excise taxes on tobacco and places peculiarly adapted for taxation, and then you would have the ideal system. (Testimony before Senate Committee on Finance, Sept. 8, 1921, p. 163.)

There are two irreconcilable theories of taxation which are at war in the United States.

The progressive theory of taxation holds that the largest possible share of the Federal revenues shall be raised by direct taxes, levied in proportion to ability to pay on individuals and corporations in such manner that they can not be shifted.

It advocates as its principal fiscal measures the graduated income tax, the graduated estate tax, and the graduated tax upon the excess

profits of profiteering corporations. It seeks to avoid the placing of burdens upon commerce and legitimate enterprise.

It is modern, scientific, flexible, and efficient. It is advocated by the progressives of all parties and by the greatest authorities on public finance in every country.

This was the theory upon which the Great War was financed. Without these measures—the income tax, the estate tax, and the excess-profits tax—the enormous sums required for war expenditures could not have been raised.

The reactionary theory of taxation—the "Mellon plan"— holds that the greatest possible share of Federal revenue should be raised by indirect taxes, imposed at flat rates upon the rich and poor alike, in such manner that they can be easily shifted to the backs of the consumers.

It advocates as its principal fiscal measures a high tariff, the sales tax, heavy excise taxes on tobacco and other commodities, and a flat rate on corporations. It has no scruples about placing annoying and vexatious taxes upon commerce and legitimate industry if these taxes can be shifted to the great mass of American consumers.

It is out of date, unscientific, unjust, and cumbersome. It has been discarded by every modern highly civilized nation and is advocated only by those who seek to relieve wealth of its just burdens.

This reactionary system of taxation is that which is now advocated by the "unholy alliance" of conservative Republicans and conservative Democrats. It is upon the foundation of this unsound theory of taxation that the coalition has built the revenue bill of 1926.

THE GREAT DRIVE TO UNTAX WEALTH

The revenue bill of 1926—the coalition tax bill—represents the latest stage of a great campaign inaugurated in 1921 for the purpose of destroying the graduated system of taxation and relieving great wealth from paying its fair share of the burdens of government.

This great drive, headed by Andrew W. Mellon, one of its chief beneficiaries, has already saved multimillionaires and profiteering corporations thousands of millions of dollars.

With just one more tax reduction like the present the graduated tax system will be wiped out entirely and a system will be in force where the burden of taxation will rest with equal weight upon John Jones, the common laborer, and upon John D. Rockefeller, the richest man in the world.

That is the goal for which Mellon and his reactionary supporters in the Republican and Democratic Parties are striving. That is the ideal which Secretary Mellon personally proclaimed soon after he took office. Testifying before the Senate Finance Committee on September 8, 1921, he declared:

"I think this, that the ideal system of taxation, if it could be inaugurated, if you could do away with all the other taxes and make an equitable tax on all turnovers—all sales of real estate, goods, wares, and merchandise, everything, it would spread the burden of taxation as much as it can be spread, with the exception of some taxes, like the excise taxes on tobacco and places peculiarly adapted for taxation, and then you would have the ideal system."

In furtherance of this "ideal" Mellon and his supporters have already succeeded in abolishing the graduated corporation tax—the excess-profits tax on profiteering corporations. They accomplished this in 1921. In the same year they abolished the graduated income tax on "unearned increment"—the so-called net gain on capital assets held more than two years. For this they substituted a flat tax of 12½ per cent. This "unearned increment" constituted 40 per cent of the total income of the class with incomes over $1,000,000 in 1923, the latest year for which complete statistics are available. By this device they were relieved of three-fourths of the tax on this class of unearned income.

This year they have succeeded in "ungraduating" the graduated tax on incomes and estates to such an extent that the principle of "taxation according to ability to pay" is seriously undermined. Another drive like the present will complete the destruction of the graduated principle and result in the attainment of Secretary Mellon's ideal of a universal sales tax on "all sales of real estate, goods, wares, and merchandise—everything!"

$3,000,000,000 SAVED FOR MULTIMILLIONAIRES AND PROFITEERING CORPORATIONS

Let us now take a bird's-eye view of the results of this drive to untax wealth and profiteering.

We must consider the effects of five separate transactions, each having this end in view.

1. The repeal of the excess-profits tax.
2. The reductions of the supertaxes.
3. The substitution of a flat rate of 12½ per cent on "unearned increment" (capital net gain).
4. The virtual repeal of the estate tax.
5. The huge Treasury refunds to individuals and corporations of great wealth.

Ignoring for the moment the detailed methods of calculation, we find that since the Harding-Coolidge administration came into power and without counting the effects of the revenue bill of 1926, it has reduced the burden of taxation upon great wealth and profiteering corporations by the enormous sum of $2,885,357,155. This is nearly $3,000,000,000. It is one-seventh of the public debt of the United States.

This sum is made up of the following items, covering the three years 1922, 1923, and 1924:

Repeal of excess-profits tax	$2,141,203,652
Reduction of surtaxes and substitution of flat tax of 12½ per cent on "unearned increment" for incomes over $50,000	714,153,503
Total tax savings to great wealth and profiteering corporations	2,855,357,155

To this must be added the reductions in taxes on great wealth provided by the revenue bill of 1926. This bill reduces the surtaxes on incomes over $50,000 by $108,000,000 (estimate of Treasury actuary). It reduces the estate tax by almost half and allows a credit of 80 per cent of State inheritance taxes. When the full effect of this action is felt, it will reduce the proceeds from the Federal estate tax to about $25,000,000, or a total saving to great fortunes of $75,000,000 a year. The revenue bill of 1926 also provides for making a retroactive repeal of the high estate-tax rates of 1924 and for refunding all taxes paid under them. This will save the great fortunes at least $25,000,000 more.

To this should finally be added the huge refunds allowed to individuals and corporations by the Mellon administration. From July 1, 1921, to April 30, 1925, these amounted to $459,000,000. Of these refunds the Couzens committee has reported that its investigations indicate that $308,000,000 represented improper allowances.

We have, therefore, as the aggregate amount saved to great wealth and profiteering corporations by the Harding-Coolidge administration under the leadership of Secretary Mellon the colossal sum of more than $3,000,000,000. This is made up of the following items:

Repeal of excess-profits tax (aggregate for 1922, 1923, and 1924)	$2,141,203,652
Reduction of surtaxes and substitution of flat rate on "unearned increment" for incomes over $50,000 (aggregate for 1922, 1923, and 1924)	714,153,503
Additional reduction of surtaxes on incomes over $50,000, revenue bill of 1926	108,000,000
Reduction of estate tax and allowance of 80 per cent credit on State taxes	75,000,000
Retroactive repeal of 1924 estate-tax rates	25,000,000
Improper refunds to individuals and corporations (July 1, 1921, to Apr. 30, 1925)	308,000,000
Total	3,371,357,155

The detailed tables upon which these statements are based are attached hereto as Exhibit A.

"UNTO HIM THAT HATH SHALL BE GIVEN"

The results of the great drive to "untax wealth" which Secretary Mellon inaugurated as soon as he took office can also be seen by examining the statistics of personal tax reductions during the period from 1922 to 1924.

The following summary has been compiled from the official statistics published by the Commissioner of Internal Revenue. They summarize the effects of the revenue acts of 1921 and 1924. They show that the 18,000 millionaires with incomes over $50,000 have received more than six times as great reductions as the 6,600,000 of Mr. Mellon's "subjects" who earned less than $5,000 a year.

Reduction of tax on personal incomes, 1922 to 1924

	Number of persons in each class	Aggregate amount of reductions
Under $5,000	6,624,591	$117,337,893
$5,000 to $10,000	407,635	86,525,890
$10,000 to $50,000	211,204	329,052,237
$50,000 and over	17,997	714,153,503

These figures would have been even more startling if the Mellon tax plan of 1924 had been carried through. That plan was blocked, however, by the combined efforts of the progressive Republicans and Democrats.

How much fairer the revenue act of 1924 was than the act of 1921 is shown by the following figures.

Reduction of tax on personal incomes, 1922 to 1924

Year	Under $5,000	$5,000 to $10,000	$10,000 to $50,000	$50,000 and over
1922	$1,369,404	$6,227,324	$36,221,266	$123,603,429
1923	40,502,085	23,341,676	114,048,828	262,889,700
1924	75,466,404	56,956,890	178,782,143	327,660,374
	117,337,893	86,525,890	329,052,237	714,153,503

To this should be added the effects of the revenue bill of 1926. These have been effectively summarized by Senator HOWELL in a statement which he placed in the RECORD on February 12, 1926. This related to the bill as it passed the Senate, and has been modified for this memorandum as regards the estate tax, which was repealed by the Senate but restored by conference with largely reduced rates and with a credit of 80 per cent of State inheritance taxes. Instead of the $150,000,000 which Senator HOWELL stated would be lost by the repeal of the estate tax it has been estimated that $75,000,000 would be lost by the estate-tax provision recommended by the conferees. The table has been modified accordingly.

Items	The 5,694 class with incomes over $100,000	All other taxpayers of United States
Personal income-tax reductions	$120,500,000	$98,500,000
Estate tax reductions	45,000,000	30,000,000
Rebates of estates taxes levied under 1924 law	60,000,000	40,000,000
Reductions on account of gifts tax repeal	4,500,000	3,000,000
	230,000,000	171,500,000

It should be noted in connection with this table that it differs from the "official" estimates of reduction as far as the estate tax is concerned. These estimates show a reduction of only $15,000,000. This ridiculously small estimate of reduction arises from the fact that it relates only to the year 1926. Since under the law estate taxes do not have to be settled for from two to five years, there will, of course, be millions of dollars coming in from this source for five years even if the law was absolutely repealed. The estimate used in the table shows the probable result when the full effect of the reductions is felt, which will amount to at least a $75,000,000 loss of revenue.

REVENUE BILL OF 1926 UNFAIR TO SOUTHERN AND WESTERN STATES

The revenue bill of 1926 is grossly unfair to Southern and Western States in at least two particulars:

1. The virtual repeal of the estate tax.

2. The preferential reductions granted to surtaxes on large incomes.

The estate tax and the graduated income tax are the only revenue measures by which there is any readjustment of the great wealth which is drained away from the Western and Southern States and concentrated in the hands of the multimillionaires who live in a few of the Eastern States or in Europe. The wealth flows from the farms, the mines, and the factories in the form of dividends, interest, and royalties to these great centers of wealth. It can not be taxed by the States in which it is created. They can secure benefit from it only as it is taxed by the Federal Government and used for such truly national purposes as road building, waterways, and other internal improvements.

It was to these great incomes that the revenue bill of 1926 gave the maximum reduction of 50 per cent. They are concentrated in a few States.

The smaller incomes of from $10,000 to $25,000, which received almost no reduction except through the increased credit on earned income, are, however, scattered all over the country. They are grossly discriminated against by this bill. Consider these facts. The 50 per cent reduction in surtaxes was received by only 215 persons with incomes over $500,000. Eighty-three of these live in New York and 31 in Pennsylvania. In other words, more than half of the ultrarich men and women live in two States.

On the other hand, 171,801 persons with incomes ranging from $10,000 to $25,000 received no reduction whatever in their surtaxes. It is true that some of them received the benefit of an allowance of 25 per cent on earned income up to $20,000, but so also did the million-dollar class.

These and other facts are summarized in the following table:

Number of persons receiving the various rates of reduction in surtax under the committee bill

Income range	Rate of reduction to be received	Persons receiving reduction	
		Number[1]	Per cent
	Per cent		
Over $500,000	50	215	0.1
$100,000–$500,000	46–49	3,967	1.7
$50,000–$100,000	24–47	12,452	5.5
$20,000–$50,000	10–25	24,913	10.9
$25,000–$30,000	0–12½	14,919	6.5
$10,000–$25,000	[2] 0	171,801	75.3
Total (over $10,000)		228,267	100.0

[1] Based on number in 1923. "Statistics of income," 1923, p. 59.

[2] Of the 171,801 persons in the $10,000–$25,000 class, 147,454 are between $10,000 and $20,000 who under the "earned net income" provision of the committee's bill will receive a 25 per cent reduction as compared with the 1924 law, if their entire income is "earned." This still leaves 24,347 in the $20,000–$25,000 class with no reduction. If the percentages were based on the 80,813 returns of over $20,000, the 24,347 persons receiving no reduction on this basis would be 30.2 per cent. On this same basis, the percentages of persons receiving reductions in the brackets from $25,000 up would be, in each bracket, about three times the percentage shown in the table on the basis of 228,267 returns.

The most interesting and significant facts do not emerge, however, until we classify these reductions by the States in which the beneficiaries reside. Then we find that 25 States did not have a single taxpayer that received the benefit of the 50 per cent surtax reduction on incomes over $500,000. These States were Arizona, Arkansas, Delaware, Georgia, Hawaii, Idaho, Kansas, Kentucky, Louisiana, Mississippi, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, and Wyoming.

Seven other States had only one person who received the 50 per cent reduction. These were Colorado, Indiana, Iowa, Maryland, Minnesota, Vermont, and Wisconsin.

The following table shows just how the surtax reductions were distributed among the different States. It discloses how unevenly the wealth of the United States is distributed. It demonstrates how the movement to "untax wealth" discriminates again in favor of those States where the "ultrarich" have chosen to reside.

A still more detailed analysis showing the results in various representative States is attached as Exhibit B:

Revenue bill of 1926

(Calculations based on 1923 statistics of income)

State	Number of persons receiving the various rates of surtax reduction						
	50 per cent	46–49	24–47	10–25	0–12½	0	Total (over $10,000)
	Per cent	*Per cent*	*Per cent*	*Per cent*	*Per cent*	*Per cent*	
Alabama	2	6	57	128	92	1,105	1,390
Arizona	0	2	6	22	9	182	221
Arkansas	0	11	38	70	50	709	878
California	5	186	763	1,758	1,091	13,235	17,038
Colorado	1	24	55	128	72	1,030	1,310
Connecticut	3	75	285	575	305	3,399	4,642
Delaware	0	11	39	64	35	376	525
District of Columbia	1	45	118	226	149	3,290	3,829
Florida	2	16	73	133	103	1,259	1,586
Georgia	0	18	71	201	129	1,486	1,905
Hawaii	0	15	34	52	32	277	410
Idaho	0	1	3	7	4	91	106
Illinois	24	380	1,127	2,393	1,477	16,183	21,584
Indiana	1	26	154	314	200	2,766	3,461
Iowa	1	13	51	158	113	1,553	1,889
Kansas	0	9	24	58	55	832	978
Kentucky	0	13	81	203	118	1,681	2,096
Louisiana	0	18	71	190	98	1,452	1,829
Maine	2	15	51	110	80	925	1,183
Maryland	1	53	224	502	311	3,305	4,396
Massachusetts	8	296	894	1,810	984	10,342	14,334
Michigan	9	141	446	863	518	5,639	7,616
Minnesota	1	49	152	305	195	2,245	2,947
Mississippi	0	9	19	70	38	552	688
Missouri	3	66	287	622	395	4,399	5,772
Montana	0	1	6	13	17	238	275
Nebraska	0	8	27	84	67	926	1,112
Nevada	0	1	2	1	3	48	55
New Hampshire	0	7	37	68	44	603	759
New Jersey	12	179	547	1,106	703	8,535	11,082
New Mexico	0	0	7	15	4	72	98
New York	83	1,362	3,566	6,368	3,593	37,308	52,280
North Carolina	3	33	77	166	112	1,316	1,707
North Dakota	0	0	0	3	7	119	129
Ohio	12	158	627	1,350	792	9,332	12,271
Oklahoma	0	19	43	119	104	1,755	2,040
Oregon	0	13	40	115	66	969	1,203
Pennsylvania	31	498	1,540	2,691	1,642	17,311	23,713
Rhode Island	3	45	133	256	132	1,458	2,027
South Carolina	3	7	20	68	43	570	711
South Dakota	0	0	2	9	6	154	171
Tennessee	0	15	65	238	148	1,615	2,081
Texas	0	38	184	388	231	3,306	4,147
Utah	0	1	10	34	23	371	439
Vermont	1	8	24	43	25	384	485
Virginia	0	11	66	165	90	1,598	1,930
Washington	0	10	49	151	80	1,168	1,458
West Virginia	2	21	82	159	110	1,357	1,731
Wisconsin	1	33	173	325	210	2,803	3,545
Wyoming	0	1	2	16	14	172	205
Total	215	3,967	12,452	24,913	14,919	171,801	228,267

ELEVEN MILLION DOLLARS FOR 20 MILLIONAIRES

The greatest beneficiaries of the revenue bill of 1926 are the multimillionaires with incomes of $1,000,000 a year.

The following statement, showing the amounts saved for 20 of these very wealthy men and women, has been compiled from the returns of 1924 as published in the New York Times:

Amount of tax reduction received by 20 millionaires through coalition tax bill

Name	State or city	Tax paid, 1925	Amount saved by 1926 tax bill	Amount contributed to Republican campaign fund, 1924
John D. Rockefeller, jr.	New York	$6,277,669	$2,762,174	$10,000
Henry Ford	Detroit	2,608,808	1,147,875	(?)
Edsel Ford	do	2,158,055	949,544	3,000

Amount of tax reduction received by 20 millionaires through coalition tax bill—Continued

Name	State or city	Tax paid, 1925	Amount saved by 1926 tax bill	Amount contributed to Republican campaign fund, 1924
Andrew W. Mellon	Washington	$1,882,609	$828,348	$10,000
Payne Whitney	New York	1,676,626	737,715	15,000
Edward S. Harkness	do	1,351,708	594,751	(?)
Marshall Field estate and 3 heirs	Chicago	1,197,605	526,946	5,000
Clinton H. Crane	New York	1,066,716	469,355	(?)
Anna M. Harkness	do	1,061,537	467,076	(?)
F. W. Vanderbilt	do	792,986	348,909	(?)
Subtotal for first 10		20,074,319	8,832,693	
George F. Baker, sr	do	792,076	348,513	7,500
Thomas F. Ryan	do	791,851	348,414	(1)
George F. Baker, jr	do	783,406	344,698	5,000
Vincent Astor	do	642,600	282,744	10,000
J. B. Duke (deceased)	New Jersey	641,250	282,150	12,500
Julius Fleischmann (deceased)	New York	625,996	275,438	10,000
Cyrus H. K. Curtis	Philadelphia	583,872	256,903	3,000
J. Pierpont Morgan	New York	574,379	252,726	(?)
Joseph E. Widener	Philadelphia	488,106	214,766	25,000
Thomas W. Lamont	New York	480,741	211,526	(?)
Grand total for 20		26,478,596	11,650,571	

[1] Contributed $50,000 to Democratic campaign fund.
[2] Contributed $2,500 to Democratic campaign fund.

This table raises the question whether the Republican and Democratic campaign treasurers are not absurdly inefficient and unscientific in their assessments.

A 1 per cent levy on the amounts saved for these gentlemen by the coalition tax bill would have yielded far greater returns. This should serve as a guide for future campaign treasurers.

EXHIBIT A

DETAILS OF CALCULATIONS OF TAX REDUCTIONS ON INDIVIDUAL AND CORPORATE INCOMES FOR THE YEARS 1922, 1923, AND 1924

1922 tax reduction on corporate income

[Source: "Statistics of income," 1922, pp. 16–17; 1920, p. 10]

Net income of corporations reporting net income 1922	$6,963,811,143
Average rate of corporation tax plus excess-profits tax paid in 1920—per cent	20.57
Tax on above 1922 income, at 1920 rate	1,432,455,952
Tax actually paid in 1922	783,776,268
Reduction in 1922, due to repeal of excess-profits tax	648,679,684

1923 tax reduction on corporate income

Net income of corporations reporting net income 1923 (statistics of income, 1923, p. 11)	8,321,529,134
Average rate of corporation tax plus excess-profits tax paid in 1920 (statistics of income, 1920, p. 10)—per cent	20.57
Tax on above 1923 income, at 1920 rate	1,711,738,543
Tax actually paid in 1923 (statistics of income, 1923, p. 11)	937,106,798
Reduction in 1923 due to repeal of excess-profits tax	774,631,745

1924 tax reduction on corporate incomes

Income tax paid by corporations in 1924 [1]	1,111,976,801
Rate of tax on corporate net income in 1924, one-eighth or—per cent	12½
Estimated net income of corporations in 1924 (estimated at eight times the tax paid)	8,895,814,408
Average rate of corporation income tax plus excess-profits tax paid in 1920—per cent	20.57
Tax on above estimated 1924 net income at 1920 rate	1,829,869,024
Tax actually paid in 1924	1,111,976,801
Reduction in 1924 due to repeal of excess-profits tax	717,892,223

[1] Corporate tax in 1924 arrived at as follows:

Total corporate and personal-income tax:	
First quarter 1924 (internal-revenue collections, fiscal year 1925, p. 2)	$586,780,190
Second quarter 1924 (internal-revenue collections, fiscal year 1925, p. 2)	433,719,574
Third quarter, 1924 (internal-revenue collections, fiscal year 1925, p. 2)	400,002,858
Fourth quarter 1924 (internal-revenue collections, fiscal year 1925, p. 2)	380,608,364
Year 1924	1,801,110,986
Deduct personal-income tax (statistics of income, 1924, individuals, preliminary report, p. 15)	689,134,185
Balance, corporate income tax	1,111,976,801

1922 tax reductions on personal incomes—Net incomes of individuals in 1922 calculated at 1921 rates

[Includes effect of reductions of normal taxes, surtaxes, and flat rate on capital gains]

	Net income 1922 [1]	1921 rate [2]	Yield at 1921 rates	Actual 1922 tax [3]
Under $1,000	$247,564,383	$0.08	$198,051	$246,636
$1,000–$2,000	3,630,570,922	.81	29,407,624	27,081,089
$2,000–$3,000	5,153,497,468	.39	20,098,640	20,729,737
$3,000–$5,000	4,500,557,809	1.05	47,255,857	47,533,306
$5,000–$10,000	2,641,904,702	2.90	76,615,236	70,387,912
$10,000–$25,000	2,255,871,780	6.48	146,180,491	123,575,960
$25,000–$50,000	1,208,273,932	11.53	139,313,984	125,697,249
$50,000–$100,000	805,223,854	19.87	159,997,979	144,092,555
$100,000–$150,000	260,203,553	32.00	83,265,137	71,337,246
$150,000–$300,000	266,814,381	42.14	112,435,580	98,810,408
$300,000–$500,000	116,672,075	51.94	60,599,476	43,488,227
$500,000–$1,000,000	107,670,678	58.70	63,202,687	38,559,344
$1,000,000 and over	141,386,993	63.59	89,907,989	49,517,639
Total	336,212,530		1,028,478,731	861,057,308

Summary of reductions	Yield at 1921 rates	Actual tax, 1922	Reduction
Under $5,000	$96,960,172	$95,590,768	$1,369,404
$5,000–$10,000	76,615,236	70,387,912	6,227,324
$10,000–$50,000	285,494,475	249,273,209	36,221,266
Over $50,000	569,408,848	415,805,419	123,603,429
Total	1,028,478,731	861,057,308	167,421,423

Relative benefits from reductions

	Reductions	Rate of reduction	Number of persons benefited [1]	Benefit per person
		Per cent		
Under $5,000	$1,369,404	1.4	6,193,270	$0.22
$5,000–$10,000	6,227,324	8.1	391,373	15.94
$10,000–$50,000	36,221,266	12.7	186,807	193.90
Over $50,000	123,603,429	21.7	16,031	7,710.27

[1] Statistics of income, 1922, p. 5.
[2] Statistics of income, 1922, p. 35.
[3] Statistics of income, 1922, p. 6.

1923 tax reductions on personal incomes—Net incomes of individuals in 1923 calculated at 1921 rates

[Includes effect of reductions of surtaxes and flat rate on capital gains]

Income class	Net income, 1923 [1]	1921 rate [2]	Yield at 1921 rates	Actual 1923 tax [3]
Under $1,000	$252,513,019	$0.08	$202,010	$316,602
$1,000–$2,000	3,683,428,617	.81	29,835,772	18,190,038
$2,000–$3,000	6,069,132,445	.39	23,669,617	16,570,881
$3,000–$5,000	6,461,142,951	1.05	67,842,001	45,969,794
$5,000–$10,000	2,717,991,529	2.90	78,821,754	55,480,078
$10,000–$25,000	2,558,361,589	6.48	165,781,831	103,865,711
$25,000–$50,000	1,350,680,468	11.53	155,733,458	103,600,750
$50,000–$100,000	833,898,237	19.87	165,695,580	108,873,597
$100,000–$150,000	280,656,213	32.00	89,809,988	55,719,390
$150,000–$300,000	260,584,012	42.14	109,810,103	62,104,203
$300,000–$500,000	124,569,194	51.94	64,701,239	31,668,552
$500,000–$1,000,000	95,107,209	58.70	55,827,932	25,498,434
$1,000,000 and over	152,071,881	63.59	96,702,509	35,788,475
Total	24,840,137,364		1,104,433,794	663,651,505

Summary of reductions	Yield at 1921 rates	Actual tax, 1923	Reduction
Under $5,000	$121,549,400	$81,047,315	$40,502,085
$5,000–$10,000	78,821,754	55,480,078	23,341,676
$10,000–$50,000	321,515,289	207,466,461	114,048,828
Over $50,000	582,547,351	319,657,651	262,889,700
Total	1,104,433,794	663,651,505	440,782,289

Relative benefits from reductions

Income class	Reductions	Rate of reduction	Number of persons benefited [1]	Benefit per person
		Per cent		
Under $5,000	$40,502,085	33	7,072,424	$5.73
$5,000–$10,000	23,341,676	30	397,630	58.70
$10,000–$50,000	114,048,828	35	211,633	538.89
Over $50,000	262,889,700	45	16,634	15,804.35

[1] Statistics of income, 1923, p. 4.
[2] Statistics of income, 1922, p. 35.
[3] Statistics of income, 1923, p. 5.

1924 tax reduction on personal incomes—Net income of individuals in 1924 calculated at 1921 rates

Income class	Net income 1924 [1]	1921 rate [2]	Yield at 1921 rates	Actual 1924 tax [3]
Under $1,000	$236,051,857	0.08	$188,841	$143,033
$1,000-$2,000	3,441,614,242	.81	27,877,075	8,890,693
$2,000-$3,000	5,671,134,658	.39	22,117,425	7,688,983
$3,000-$5,000	6,035,045,426	1.05	63,367,977	21,362,205
$5,000-$10,000	2,965,766,075	2.90	86,007,216	29,050,326
$10,000-$25,000	2,816,129,782	6.48	182,485,210	77,033,803
$25,000-$50,000	1,580,506,393	11.53	182,232,387	108,901,651
$50,000-$100,000	1,053,650,186	19.87	209,360,292	135,866,979
$100,000-$150,000	367,049,390	32.00	117,455,805	73,515,435
$150,000-$300,000	372,576,119	42.14	157,003,577	91,836,793
$300,000-$500,000	171,482,809	51.94	89,068,171	45,089,311
$500,000-$1,000,000	157,351,247	58.70	92,365,182	42,497,825
$1,000,000 and over	154,852,709	63.59	98,470,838	46,657,148
Total	25,023,210,893		1,327,999,996	689,134,185

[1] Statistics of income, 1924, preliminary report, p. 14.
[2] Statistics of income, 1922, p. 35.
[3] Statistics of income, 1924, preliminary report, p. 15.

Summary of reductions

	Yield at 1921 rates	Actual tax, 1924	Reduction
Under $5,000	$113,551,318	$38,084,914	$75,466,404
$5,000-$10,000	86,007,216	29,050,326	56,956,890
$10,000-$50,000	364,717,597	185,935,454	178,782,143
Over $50,000	763,723,865	436,063,491	327,660,374
	1,327,999,996	689,134,185	638,865,811

Relative benefits from reductions

	Reductions	Rate of reduction	Number of persons benefited [1]	Benefit per person
		Per cent		
Under $5,000	$75,466,404	66.5	6,608,079	$11.42
$5,000-$10,000	56,956,890	66.2	433,902	131.27
$10,000-$50,000	178,782,143	49.0	235,172	760.22
Over $50,000	327,660,374	42.9	21,328	15,362.92

EXHIBIT B

"EARNED INCOME" REDUCTION NOT AN OFFSET TO FAILURE TO REDUCE SURTAX RATES IN $10,000–$20,000 BRACKETS

The attached tables showing the amounts and percentages of surtax reduction for the various income classes record the fact that on net incomes from $10,000 to $25,000 there is no surtax reduction under the bill.

As a matter of subsidiary information, it is shown in footnote that the $10,000–$20,000 group, with no surtax reduction, is given a 25 per cent reduction if the net income is entirely "earned."

It can not be urged that a 25 per cent reduction on account of "earned" income offsets the failure to reduce the surtax on this group. It is a correct theory that an earned income should pay less tax than one unearned. It is therefore a denial of justice to grant an earned-income reduction in one section of the bill and then to take away that relative advantage in another section of the bill.

In other words, earned incomes are justly entitled to an advantage as compared with unearned. And if surtaxes are to be reduced they are also justly entitled, as an entirely separate matter, to their proper share in the advantage of surtax reduction. Instead, while other incomes from $26,000 up are to be given reductions of from 10 to 50 per cent in surtaxes, this group of $10,000–$20,000 receives no surtax reduction whatever.

This relative injustice can not be covered or excused by the fact that the bill gives this group a belated justice in the separate matter of tax on earned income.

Number of persons benefited and amount of surtax reduction—Under surtax cuts in committee's bill in specified States

(Based on returns for calendar year ended December 31, 1923)
(Source: "Statistics of Incomes," 1923, p. 136 ff.)

[NOTE.—Where two or more income classes are grouped and a single figure of surtax shown for the group it is because the official statistics so grouped items in order to avoid identifying individual taxpayers]

[Footnotes at end of table]

Income class	Number of persons	Amount of surtax in 1923	Committee surtax reduction		
			Per cent [1]		Amount [1]
			Range	Average	
ARIZONA					
$150,000-$5,000,000	0	0	50	50	0
$100,000-$150,000	2				
$90,000-$100,000	1	$43,057	24-47	41	$17,653
$60,000-$70,000	1				
ARIZONA—continued					
$70,000-$90,000	4	$41,942	31-41	36	$15,634
$30,000-$50,000	22	33,496	10-25	20	6,559
$25,000-$30,000	9	6,754	0-12½	9	608
$10,000-$25,000	182	24,646	0	0	0
Total (over $10,000)	221	149,895		27	39,854
Detail for $10,000-$25,000:					
$10,000-$20,000 [2]	158	14,680	0	0	[2]0
$20,000-$25,000	24	9,966	0	0	0
Total	182	24,646	0	0	0
IDAHO					
$500,000-$5,000,000	0	0	50	50	0
$400,000-$500,000	1	0	49	49	0
$50,000-$70,000	3	13,563	24-32	27	3,662
$30,000-$50,000	7	14,831	10-25	19	2,831
$25,000-$30,000	4	3,976	0-12½	9	358
$10,000-$25,000	91	12,647	0	0	0
Total (over $10,000)	106	45,017		15	6,851
Detail for $10,000-$25,000:					
$10,000-$20,000 [2]	82	8,967		0	[2]0
$20,000-$25,000	9	3,680		0	0
Total	91	12,647		0	0
NEVADA					
$150,000-$5,000,000	0	0	50	50	0
$40,000-$150,000	4	21,372	15-46	30	6,412
$25,000-$30,000	3	2,278	0-12½	9	205
$10,000-$25,000	48	6,501	0	0	0
Total (over $10,000)	55	30,151		22	6,617
Detail for $10,000-$25,000:					
$10,000-$20,000 [2]	44	4,874	0	0	0
$20,000-$25,000	4	1,627	0	0	0
Total	48	6,501	0	0	0
ARKANSAS					
$500,000 and over	0	0	50	50	0
$200,000-$250,000	1				
$100,000-$150,000	10	266,921	46-47	46	122,783
$50,000-$100,000	38	199,242	25-47	33.6	66,905
$30,000-$50,000	70	125,504	10-25	19	24,226
$25,000-$30,000	50	41,972	0-12½	9	3,777
$10,000-$25,000	709	113,737	0	0	0
Total (over $10,000)	878	747,376		29	217,691
Detail for $10,000-$25,000:					
$10,000-$20,000 [2]	611	67,173	0	0	[2]0
$20,000-$25,000	98	46,564	0	0	0
Total	709	113,737	0	0	0
NEW JERSEY					
$1,500,000-$4,000,000	3	589,240	50	50	294,620
$1,000,000-$1,500,000	3	361,886	50	50	180,943
$750,000-$1,000,000	3	579,984	50	50	289,992
$500,000-$750,000	3	327,447	50	50	163,724
Subtotal (over $500,000)	12	1,858,557	50	50	929,279
$100,000-$500,000	179	5,843,720	46-49	47	2,726,635
$50,000-$100,000	547	3,719,023	24-47	33	1,234,382
$30,000-$50,000	1,106	2,082,565	10-25	14	403,345
$25,000-$30,000	703	594,921	0 -12½	9	53,543
$10,000-$25,000	8,535	1,355,792	0	0	0
Total (over $10,000)	11,082	15,454,578		3	5,347,184
Detail $10,000-$25,000:					
$10,000-$20,000 [2]	7,391	817,449	0	0	[2]0
$20,000-$25,000	1,144	538,343	0	0	0
Total	8,535	1,355,792	0	0	0
PENNSYLVANIA					
$2,000,000-$3,000,000	1				
$1,500,000-$2,000,000	2	5,477,954	50	50	738,977
$1,000,000-$1,500,000	7	1,075,419	50	50	537,710
$750,000-$1,000,000	6	1,347,843	50	50	673,921
$500,000-$750,000	15	2,018,153	50	50	1,009,077
Subtotal (over $500,000)	31	5,919,369	50	50	2,959,685

Number of persons benefited and amount of surtax reduction—Under surtax cuts in committee's bill in specified States—Continued

Income class	Number of persons	Amount of surtax in 1923	Committee surtax reduction		
			Per cent[1]		Amount[1]
			Range	Average	
PENNSYLVANIA—con.					
$100,000–$500,000	498	$16,566,698	46–49	47	$7,786,238
$50,000–$100,000	1,540	9,993,801	24–47	33	3,303,602
$30,000–$50,000	2,691	5,099,816	10–25	19	990,341
$25,000–$30,000	1,642	1,375,737	0–12½	9	123,816
$10,000–$25,000[2]	17,311	2,815,701	0	0	[2]0
Total (over $10,000)	23,713	41,771,122	.....	36	15,164,682
Detail $10,000–$25,000:					
$10,000–$20,000[2]	14,853	1,162,839	.....	0	[2]0
$20,000–$25,000	2,458	1,152,862	.....	0	0
Total	17,311	2,815,701	.....	0	0
NEW YORK					
$5,000,000 and over	1				
$4,000,000–$5,000,000	1	8,731,579	50	50	4,365,790
$3,000,000–$4,000,000	3				
$2,000,000–$3,000,000	6	2,067,731	50	50	1,033,865
$1,500,000–$2,000,000	5	1,002,065	50	50	501,033
$1,000,000–$1,500,000	18	4,145,103	50	50	2,072,551
$750,000–$1,000,000	9	1,992,252	50	50	996,126
$500,000–$750,000	40	6,579,396	50	50	3,289,698
Subtotal (over $500,000)	83	24,518,126	50	50	12,259,063
$100,000–$500,000	1,362	47,505,244	46–49	47	22,311,992
$50,000–$100,000	3,566	24,523,619	24–47	33	8,201,380
$30,000–$50,000	6,368	12,529,821	10–25	20	2,443,784
$25,000–$30,000	3,593	8,025,794	0–12½	9	272,321
$10,000–$25,000	37,308	6,325,081	0	0	0
Total (over $10,000)	52,280	118,427,685	.....	38	45,488,540
Detail for $10,000–$25,000:					
$10,000–$20,000[2]	31,633	3,654,751	0	0	[2]0
$20,000–$25,000	5,675	2,670,330	0	0	0
Total	37,308	6,325,081	0	0	0

[1] When percentage of reduction is shown as a range (e.g., 24–47 per cent), the amount of reduction has been estimated on the basis of the average of the various percentages included in the range. In case of grouped figures the average is weighted according to the number of persons in each class of the group.

[2] $10,000–$20,000 class shown separately, because under "Earned income" provision of committee bill these persons have a 25 per cent reduction if income is all "earned."

Mr. ROBINSON of Arkansas. Mr. President, the discussion of the motion submitted by the Senator from West Virginia [Mr. NEELY] has been interesting, and his appeal for the elimination of the automobile tax has impressed me very sincerely. At this stage of the proceedings, however, it is not possible to have a vote on the motion in the form presented. I would not suggest a point of order against any motion that the Senator from West Virginia made if the situation were different from that which now exists.

The state of the record as I understand it is—and if I am in error some one who knows better will please correct me—that the conference report was submitted to the body at the other end of the Capitol yesterday and agreed to last night. The conference report having been acted upon in one branch of the Congress, it is not possible for the other branch to recommit the conference report to the committee of conference for the simple reason that when one branch of Congress acts upon a conference report, that action automatically discharges the conferees on the part of that House. While I would like very much to see a vote on the motion submitted by the Senator from West Virginia, that vote can not be taken for the reason that if it prevails it would be a moral and intellectual impossibility to determine how we could ever get the bill back before the Senate unless the Senate should take the viewpoint that its action in committing the bill back to conference was a nullity.

For this reason, at this stage of the proceedings the only vote that can be taken is a vote on agreeing to the conference report. I am compelled, therefore, to suggest the point of order. As I stated before, I would not do it if it were a mere matter of procedure in the Senate, but the point goes to the very question of passing the bill at all, and therefore I am compelled to make it.

The VICE PRESIDENT. The Chair holds that the point of order is well taken.

Mr. BLEASE. Mr. President, before the Chair rules I would like to ask the Senator from Arkansas a question.

Mr. ROBINSON of Arkansas. I yield to the Senator from South Carolina.

Mr. BLEASE. If the Senate should refuse to concur, what, then, would be the situation?

Mr. ROBINSON of Arkansas. It would then be necessary to appoint new conferees and send the bill back to conference, if the bill is to pass. But the House having agreed to the conference report and thereby discharged its conferees, it is not possible now to recommit it to conference.

It is a disputed question as to whether a conference report can be recommitted to a conference with instructions, but I do not raise that point. There are cases which hold both ways, that it is competent for the Senate to instruct its conferees and recommit bills to conference, under certain conditions, with instructions. But this is an entirely different case. This is a case where the conferees have reported to the House of Representatives, and that body has agreed to the conference report and discharged its conferees. As held by Mr. Speaker Crisp, which ruling has never been controverted, a motion to recommit is to recommit to the full conference, not to the conferees on the part of the Senate, but to the conferees as a whole. Since the conferees on the part of the House have been discharged, it is not possible at this time to entertain the motion which has been made.

Mr. BLEASE. Mr. President, I have no doubt the Senator from Arkansas is entirely correct, and I think if the Senator would move to recommit the motion would carry with it the discharge of the present conferees. I think the Senator is correct in that proposition of parliamentary law.

Mr. NEELY. Mr. President, under the rules of the Senate, as everyone knows, a question of order is not debatable. I have been insisting in vain on the enforcement of that rule for the last three years. But inasmuch as the Senator from Arkansas [Mr. ROBINSON], for whose opinion I have great respect, has been permitted to discuss the point of order he has made against my motion to recommit, I hope the Chair will indulge me long enough to invite attention to two decisions that are applicable to the case.

In 1873 in a case involving the point of order that the Senator from Arkansas now makes the following occurred:

The Presiding Officer (George F. Edmunds) overruled the point of order, quoting from Barclay's Digest: "A committee of conference may be instructed like any other committee, but the instructions can not be moved when the papers are not before the House."

Of course, the papers in this case are before the Senate.

An appeal was taken and was debated at length and learnedly, the nature, history, and objects of conference committees being set out by Mr. Sherman, Mr. Bayard, Mr. Conkling, and Mr. Hamlin. The decision of the chair was overruled by a vote of 11 ayes to 47 nays. (See Cong. Globe, 42d Cong., 3d sess., pp. 2173–2184; J. pp. 554 557.)

In the Fifty-ninth Congress, on June 6, 1906, the same question arose, when it appears, from page 229 of Gilfry's Precedents, that the following action was taken:

On motion by Mr. Tillman—

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

During the debate Mr. Lodge said: "Mr. President, the amendment of the Senator from North Dakota [Mr. Hansbrough], for which I voted and which I think was an excellent amendment, provided that in the case of a shipper soliciting or receiving a rebate or discrimination he should be liable in a civil action for three times the amount. The words 'knowingly and willfully' are stricken out of that clause. * * * I do not desire to press this to a vote of instruction if the conferees will consent to the removal of these lines without bringing it back again to the Senate."

In the case just mentioned the motion to recommit with instructions prevailed, and it ought to prevail now.

Mr. ROBINSON of Arkansas. Mr. President, will my friend from West Virginia yield to me for just a moment?

Mr. NEELY. Certainly.

Mr. ROBINSON of Arkansas. Every case to which the Senator has referred—and I think every case to which he can refer—relates to the proposal to recommit a measure with instructions to the conferees before either House has acted upon the conference report. I did not raise that point, as I explained to the Senate, because I realized that the authorities are divided on it; there are a great many of them both ways; but this situation is entirely different. It is a physical im-

possibility to recommit the bill to a body that no longer exists. That is the point about it.

Mr. NEELY. Mr. President——

Mr. MOSES. Has the Senator from Arkansas quoted the precedents on that?

Mr. ROBINSON of Arkansas. I have not quoted the precedents, but I can do so. I have them before me.

Mr. MOSES. May I call the Senator's attention to a very sweeping precedent in volume 2, page 209, on a ruling by Vice President Marshall?

Mr. ROBINSON of Arkansas. Yes; I have also the precedent to which the Senator from West Virginia [Mr. NEELY] has referred, but when one thinks about it a moment, precedents are not required. If it be conceded that the effect of the House acting upon a conference report is to discharge its conferees, which is the rule universally accepted, then the conference no longer exists; and it is not possible to recommit a bill to a body that has been disbanded. When the representatives of the House on a conference committee perform their function, submit the conference report to the House, and the House acts upon it, they no longer exist as conferees; they are merged back into the House of Representatives as Members of the body.

Mr. MOSES. They are automatically discharged.

Mr. ROBINSON of Arkansas. They are automatically discharged, as I previously stated.

Mr. MOSES. That is true; but the fact is also that the Senate by a sweeping vote of 47 to 11 maintained the same position.

Mr. ROBINSON of Arkansas. Oh, yes. However, so far as the vote of the Senate is concerned, it might have voted 47 to 11 the other way if it had taken a different view of the question; but I am resting this not alone upon the precedents—and there are none to the contrary—but on the consideration that when we come to realize the situation there can be no recommittal of this bill to the conferees.

Mr. SMOOT. Mr. President, I may say to the Senator from West Virginia [Mr. NEELY] that, if he will remember, the Senate insisted upon its amendments and asked for a conference. If we had simply passed the bill, it had gone to the other House, and the House had asked for the conference and had insisted upon its bill, then when the bill went to conference we would have had to report it first. Then the Senate could have given any instructions it desired because of the fact that the House conferees would not have been discharged, but in this case we asked for the conference and insisted upon our amendments.

The VICE PRESIDENT. The Chair rules that the point of order is well taken. Is there an appeal from the decision of the Chair?

Mr. NEELY. I respectfully appeal from the decision of the Chair.

The VICE PRESIDENT. The question is, Shall the decision of the Chair stand as the judgment of the Senate?

Mr. NEELY. On that question I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. SMOOT. A parliamentary inquiry, Mr. President.

The VICE PRESIDENT. The Senator will state it.

Mr. SMOOT. I wish the Chair would again state the question, because there seems to be a misunderstanding as to just what it is.

The VICE PRESIDENT. The question is, Shall the decision of the Chair stand as the judgment of the Senate?

The Chief Clerk proceeded to call the roll.

Mr. GLASS (when his name was called). I have a general pair with the senior Senator from Connecticut [Mr. MCLEAN], who is unavoidably absent; but having reason to think that he would vote as I intend to vote, I feel at liberty to vote, and I vote "yea."

Mr. PHIPPS (when his name was called). On this question I have a pair with the Senator from Georgia [Mr. GEORGE]; but having reason to believe that he would vote as I intend to vote were he present, I am at liberty to vote, and I vote "yea."

Mr. PINE (when his name was called). I have a general pair with the junior Senator from New Jersey [Mr. EDWARDS]. Not knowing how he would vote, I withhold my vote.

Mr. ROBINSON of Arkansas (when his name was called). I have a pair with the Senator from California [Mr. JOHNSON], which I transfer to the Senator from New Mexico [Mr. JONES] and vote "yea."

While on my feet I wish to say that I have been requested to announce that the junior Senator from Arkansas [Mr. CARAWAY] is absent, and that he is paired with the Senator from Iowa [Mr. BROOKHART].

The roll call was concluded.

Mr. JONES of Washington. I desire to announce that the senior Senator from Illinois [Mr. MCKINLEY] is necessarily absent. If present, he would vote "yea."

Mr. FLETCHER. I have a general pair with the Senator from Delaware [Mr. DU PONT]. If he were present, he would vote "yea." I withhold my vote.

Mr. LA FOLLETTE. I desire to announce that the senior Senator from Nebraska [Mr. NORRIS] is detained at home on account of illness.

Mr. WHEELER. I desire to announce that the junior Senator from New Jersey [Mr. EDWARDS] is unavoidably detained on account of illness.

Mr. JONES of Washington. I desire to announce the following general pairs:

The Senator from Illinois [Mr. DENEEN] with the Senator from Missouri [Mr. REED];

The Senator from Illinois [Mr. MCKINLEY] with the Senator from Utah [Mr. KING];

The Senator from New Jersey [Mr. EDGE] with the Senator from Mississippi [Mr. HARRISON]; and

The Senator from Massachusetts [Mr. GILLETT] with the Senator from Alabama [Mr. UNDERWOOD].

Mr. WALSH. I desire to announce that the junior Senator from Utah [Mr. KING] is detained from the Senate by illness.

The result was announced—yeas 62, nays 8, as follows:

YEAS—62

Ashurst	Fess	Means	Simmons
Bayard	Gerry	Metcalf	Smith
Bingham	Glass	Moses	Smoot
Blease	Goff	Norbeck	Stanfield
Broussard	Gooding	Oddie	Stephens
Bruce	Hale	Overman	Swanson
Butler	Harreld	Pepper	Trammell
Cameron	Harris	Phipps	Tyson
Capper	Heflin	Pittman	Wadsworth
Copeland	Jones, Wash.	Ransdell	Warren
Couzens	Kendrick	Reed, Pa.	Watson
Cummins	Keyes	Robinson, Ark.	Weller
Curtis	La Follette	Robinson, Ind.	Williams
Dale	McKellar	Sackett	Willis
Ernst	McNary	Sheppard	
Ferris	Mayfield	Shortridge	

NAYS—8

Dill	Howell	Nye	Walsh
Frazier	Neely	Shipstead	Wheeler

NOT VOTING—26

Borah	Edwards	Johnson	Norris
Bratton	Fernald	Jones, N. Mex.	Pine
Brookhart	Fletcher	King	Reed, Mo.
Caraway	George	Lenroot	Schall
Deneen	Gillett	McKinley	Underwood
du Pont	Greene	McLean	
Edge	Harrison	McMaster	

So the Senate refused to overrule the decision of the Chair.

The VICE PRESIDENT. The question is on agreeing to the conference report.

Mr. BLEASE. Mr. President, I move that the Senate do not concur in the conference report, and that the conferees on the part of the Senate be discharged from further consideration of the bill.

Mr. HEFLIN. I move to lay that motion upon the table.

Mr. FESS. I rise to a point of order.

The VICE PRESIDENT. The Senator from Ohio will state his point of order.

Mr. FESS. A negative vote on the motion before the Senate will reach the same question in the way the Senator from South Carolina wishes to reach it.

The VICE PRESIDENT. The Chair will rule the motion of the Senator from South Carolina out of order.

Mr. BLEASE. Just a moment, please, sir.

The VICE PRESIDENT. The Senator from South Carolina is recognized.

Mr. BLEASE. My friend from Ohio is very much mistaken if he knows anything about parliamentary law. The motion now before the Senate if rejected will not discharge the committee. If there is any one thing I do know about, it is, I think, parliamentary law, and I insist on my motion. If the Chair rules it out of order, I shall, with the greatest respect for him, appeal from his decision, because I know I am right. Take a vote on it and vote it down if you want to do so, but do not try to side step it.

Mr. HEFLIN. Mr. President, I have moved to lay the motion on the table.

Mr. BLEASE. That is all right; I do not object to that.

The VICE PRESIDENT. The Chair has held the motion out of order. The question is, Shall the decision of the Chair in that ruling stand as the judgment of the Senate? [Putting the question.]

The decision of the Chair was sustained.

The VICE PRESIDENT. The question is on agreeing to the conference report.

Mr. ASHURST, Mr. SMOOT, and Mr. SIMMONS called for the yeas and nays.

The yeas and nays were ordered, and the Chief Clerk proceeded to call the roll.

Mr. ROBINSON of Arkansas (when Mr. CARAWAY's name was called). The junior Senator from Arkansas [Mr. CARAWAY] is necessarily absent. He is paired with the Senator from Iowa [Mr. BROOKHART].

Mr. FLETCHER (when his name was called). I have a general pair with the Senator from Delaware [Mr. DU PONT]. If he were present, he would vote "yea." Not being able to obtain a transfer, I withhold my vote.

Mr. GLASS (when his name was called). I have a general pair with the senior Senator from Connecticut [Mr. MCLEAN]. Having reason to think that he would vote as I shall vote, I vote "yea."

Mr. JONES of Washington (when Mr. MCKINLEY's name was called). The senior Senator from Illinois [Mr. MCKINLEY] is necessarily absent. If present, he would vote "yea."

Mr. LA FOLLETTE (when Mr. NORRIS's name was called). I desire to announce that the Senator from Nebraska [Mr. NORRIS] has a pair with the Senator from New Mexico [Mr. BRATTON]. If the Senator from Nebraska were present, he would vote "nay," and if the Senator from New Mexico were present, he would vote "yea."

Mr. PHIPPS (when his name was called). Making the same announcement as on the previous roll call, I vote "yea."

Mr. PINE (when his name was called). I have a general pair with the junior Senator from New Jersey [Mr. EDWARDS]. I understand that if that Senator were present, he would vote "yea." Therefore I feel at liberty to vote. I vote "yea."

Mr. ROBINSON of Arkansas (when his name was called). I have a pair with the Senator from California [Mr. JOHNSON], which I transfer to the Senator from New Mexico [Mr. JONES], and will vote. I vote "yea."

Mr. HEFLIN (when Mr. UNDERWOOD's name was called). My colleague [Mr. UNDERWOOD] is absent on account of illness. If he were present, he would vote "yea."

The roll call was concluded.

Mr. BINGHAM. I desire to announce that my colleague [Mr. MCLEAN] is unavoidably detained by illness. If present, he would vote "yea."

Mr. NORBECK. I desire to announce that my colleague [Mr. MCMASTER] is absent on account of death in his family.

Mr. WALSH. I rise to announce that the Senator from Utah [Mr. KING] is absent on account of illness.

Mr. DALE. I desire to announce that my colleague [Mr. GREENE] is unavoidably absent. If he were present, he would vote "yea."

Mr. GERRY. I desire to announce that the Senator from Georgia [Mr. GEORGE], the Senator from Mississippi [Mr. HARRISON], and the Senator from New Mexico [Mr. JONES] are unavoidably absent; but if present, they would vote "yea."

Mr. HALE. I desire to announce that my colleague [Mr. FERNALD is absent on account of illness. If present, he would vote "yea."

Mr. JONES of Washington. I desire to announce the following general pairs:

The Senator from Illinois [Mr. DENEEN] with the Senator from Missouri [Mr. REED];

The Senator from New Jersey [Mr. EDGE] with the Senator from Mississippi [Mr. HARRISON];

The Senator from Massachusetts [Mr. GILLETT] with the Senator from Alabama [Mr. UNDERWOOD]; and

The Senator from Illinois [Mr. MCKINLEY] with the Senator from Utah [Mr. KING].

I also desire to announce that the junior Senator from Illinois [Mr. DENEEN], the senior Senator from New Jersey [Mr. EDGE], the junior Senator from Massachusetts [Mr. GILLETT], the senior Senator from Illinois [Mr. MCKINLEY], the junior Senator from Minnesota [Mr. SCHALL], and the junior Senator from Delaware [Mr. DU PONT] would, if present, vote "yea." They are all necessarily absent.

The result was announced—yeas 61, nays 10, as follows:

YEAS—61

Ashurst	Dale	Heflin	Overman
Bayard	Dill	Jones, Wash.	Pepper
Bingham	Ernst	Kendrick	Phipps
Broussard	Ferris	Keyes	Pine
Bruce	Fess	McKellar	Pittman
Butler	Gerry	McNary	Ransdell
Cameron	Glass	Mayfield	Reed, Pa.
Capper	Goff	Means	Robinson, Ark.
Copeland	Gooding	Metcalf	Robinson, Ind.
Couzens	Hale	Moses	Sackett
Cummins	Harreld	Neely	Sheppard
Curtis	Harris	Oddie	Shortridge
Simmons	Stephens	Warren	Willis
Smith	Swanson	Watson	
Smoot	Tyson	Weller	
Stanfield	Wadsworth	Williams	

NAYS—10

Blease	La Follette	Shipstead	Wheeler
Frazier	Norbeck	Trammell	
Howell	Nye	Walsh	

NOT VOTING—25

Borah	Edwards	Johnson	Norris
Bratton	Fernald	Jones, N. Mex.	Reed, Mo.
Brookhart	Fletcher	King	Schall
Caraway	George	Lenroot	Underwood
Deneen	Gillett	McKinley	
du Pont	Greene	McLean	
Edge	Harrison	McMaster	

So the report was agreed to.

ALUMINUM CO. OF AMERICA

Mr. WALSH. I ask that the unfinished business be laid before the Senate.

The VICE PRESIDENT. The Chair lays it before the Senate.

The Senate resumed the consideration of the report (No. 177) of the Committee on the Judiciary, submitted by Mr. WALSH on February 15, 1926, in the matter of the Aluminum Co. of America.

RECESS

Mr. JONES of Washington. I move that the Senate take a recess until 12 o'clock to-morrow.

The motion was agreed to; and (at 5 o'clock and 38 minutes p. m.) the Senate took a recess until to-morrow, Thursday, February 25, 1926, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES

WEDNESDAY, *February 24, 1926*

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

We hallow Thy name our blessed Lord, for it is the name above all other names in heaven and in earth; we therefore pause in Thy holy presence. Bear with us, O God; create in us clean hearts and renew a right spirit within, that we may move forward wisely to larger attainments. May we fully realize that the world has no lasting honors for those who seek only fame, while those who forget themselves to remember the needs of others often awake to find themselves remembered. Guide us by Thy law, rule us by Thy love, and lead us in the pathway of service. May the angel of Thy mercy, bounty, and goodness encamp round about us, and make all events conspire to serve our country and our fellow men. In the name of Jesus we pray. Amen.

The Journal of the proceedings of yesterday was read and approved.

SENATE BILLS REFERRED

Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees as indicated below:

S. 451. An act for the relief of the city of Baltimore; to the Committee on War Claims.

S. 453. An act for the relief of Belle H. Walker, widow of Frank H. Walker, deceased, and Frank E. Smith; to the Committee on Claims.

S. 492. For the relief of Swend A. Swendson; to the Committee on Claims.

S. 585. An act for the relief of F. E. Romberg; to the Committee on Indian Affairs.

S. 850. An act for the relief of Robert A. Pickett; to the Committee on the Public Lands.

S. 867. An act authorizing the Secretary of the Treasury to pay the Columbus Hospital, Great Falls, Mont., for the treatment of disabled Government employees; to the Committee on Claims.

S. 989. An act to amend section 129 of the Judicial Code relating to appeals in admiralty cases; to the Committee on the Judiciary.

S. 1047. An act to reimburse the State of Montana for expenses incurred by it in suppressing forest fires on Government land during the year 1919; to the Committee on Claims.

S. 1463. An act to provide relief for the victims of the airplane accident at Langin Field; to the Committee on Claims.

S. 1473. An act granting permission to certain officers and men of the military forces of the United States to accept various decorations bestowed in recognition of services to the allied cause; to the Committee on Foreign Affairs.

S. 1550. An act to appropriate certain tribal funds for the benefit of the Indians of the Fort Peck and Blackfeet Reservations; to the Committee on Indian Affairs.

S. 1834. An act providing for remodeling, repairing, and improving the Pawnee Indian school plant, Pawnee, Okla., and providing an appropriation therefor; to the Committee on Indian Affairs.

S. 2086. An act for the relief of A. T. Marix; to the Committee on Claims.

S. 2334. An act authorizing the sale and conveyance of certain lands of the Kaw Reservation in Oklahoma; to the Committee on Indian Affairs.

S. 2461. An act to grant extensions of time under oil and gas permits; to the Committee on the Public Lands.

THE LEGISLATIVE COUNSEL

Mr. GREEN of Iowa. Mr. Speaker, yesterday I omitted one matter in the way of doing justice to some of those who have been of importance in the preparation of the revenue bill. I refer to the drafting bureau, or, as it is now called, the legislative counsel. Without their valuable assistance it would have been utterly impossible for either the House or the Senate to have brought this bill in at the time we did. It would not only have taken weeks or even months more, but even then we never would have had the assurance of accuracy and correctness in the bill that we have at this time. This drafting bureau saves the Government not merely thousands, but millions of dollars every year in getting these provisions in the bill correct, so that there is no chance for evading them under the wording that is finally put into the bill.

At the head of the House force and prominent in the drafting of the bill is Mr. Beaman, the chief counsel for the House, whose ability and efficiency is known to all of us. Mr. Lee, the chief counsel for the Senate, and, in addition, Mr. Alvord, have both rendered very valuable services. I ought also to mention Mr. Walker, the expert for the Treasury, who, although not of the congressional force, aided in the work and whose services were of a high rank.

These gentlemen have been working nights, days, and Sundays, with very slight intervals for rest, ever since the House committee started its work on the technical features of the bill. The conflict over matters of policy absorbed all the time of the members of the committee and the services of these men were absolutely indispensable. [Applause.]

REV. JAMES SHERA MONTGOMERY

Mr. O'CONNELL of Rhode Island. Mr. Speaker, I ask unanimous consent to address the House for two minutes.

The SPEAKER. Is there objection.

There was no objection.

Mr. O'CONNELL of Rhode Island. Mr. Speaker, yesterday I received a letter from J. Frank Sullivan, a Democratic member of the Rhode Island Legislature, concerning a matter in which he was interested, and he closed the letter with the following paragraph which I think the Members will be glad to hear:

> Before I close I can not but express another thought, and that is that you surely are most fortunate in having a man like Reverend Mr. Montgomery as Chaplain of the House at Washington. I believe he is the most wonderful public speaker that I have ever heard, and when you next see him I wish you would tell him that the Legislature of Rhode Island has not yet finished raving over the eloquent and scholarly address which he delivered before that body on Lincoln's birthday. It surely was a great treat.

[Applause.]

CALENDAR WEDNESDAY

The SPEAKER. This is Calendar Wednesday.

Mr. BLANTON. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. The gentleman from Texas makes the point of order that there is no quorum present. Evidently there is not.

Mr. TILSON. Mr. Speaker, I move a call of the House.

The motion was agreed to.

The doors were closed.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 42]

Berger	Crumpacker	Golder	Lee, Ga.
Bowles	Curry	Graham	Lehlbach
Brand, Ohio	Doyle	Hastings	Luce
Britten	Eaton	Hawley	McClintic
Carew	Ellis	Hull, William E.	McFadden
Carter, Calif.	Esterly	Kahn	Magee, Pa.
Carter, Okla.	Fletcher	Kelly	Magrady
Chapman	Foss	Kendall	Martin, La.
Cleary	Fredericks	Kerr	Menges
Connolly, Pa.	Fulmer	Kindred	Michaelson
Cox	Gallivan	Lampert	Morehead
Morin	Sears, Nebr.	Taylor, Tenn.	Walters
Oldfield	Shallenberger	Thayer	Warren
Parks	Sullivan	Thomas	Weaver
Phillips	Sumners, Tex.	Tincher	Woodruff
Pou	Swartz	Tydings	Wright
Quayle	Sweet	Vare	Yates
Ransley	Swoope	Wainwright	

The SPEAKER. Three hundred and fifty-three Members have answered to their names; a quorum.

Mr. TILSON. Mr. Speaker, I move to dispense with further proceedings under the call.

The motion was agreed to.

The doors were opened.

The SPEAKER. The Clerk will call the committees.

The Clerk called the Committee on Interstate and Foreign Commerce.

RAILWAY LABOR DISPUTES

Mr. PARKER. Mr. Speaker, I call up the bill H. R. 9463, to provide for the prompt disposition of disputes between carriers and their employees, and for other purposes.

The SPEAKER. The gentleman from New York calls up a bill which the Clerk will report.

The Clerk read the title of the bill.

The SPEAKER. This bill is on the Union Calendar. The House will automatically resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill, and the gentleman from Illinois [Mr. MADDEN] will take the Chair.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 9463, with Mr. MADDEN in the chair.

The Clerk reported the title of the bill.

Mr. PARKER. Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with.

The CHAIRMAN. Is there objection?

Mr. BLANTON. Mr. Chairman, for the benefit of Members hereafter, does not the gentleman think that there ought to be a record made of this bill? Let it be read into the RECORD so that we will have it for future reference.

Mr. PARKER. Oh, no.

Mr. BLANTON. It is hard to get these old bills and reports after they have been passed. I think it ought to go into the RECORD.

Mr. PARKER. The gentleman has a right to object to my request.

Mr. BLANTON. Mr. Chairman, in connection with the gentleman's request, I ask unanimous consent that the bill, instead of being read, may be printed in the RECORD, for the benefit of the public.

Mr. PARKER. Mr. Chairman, I renew my request, that the first reading of the bill be dispensed with.

The CHAIRMAN. The gentleman from New York asks unanimous consent that the first reading of the bill be dispensed with. Is there objection?

Mr. BLANTON. Mr. Chairman, in connection with that I ask unanimous consent that the bill be printed in the RECORD, without reading.

The CHAIRMAN. Is there objection to the request?

Mr. BEGG. What is the request?

The CHAIRMAN. The request is that in lieu of the request of the gentleman from New York that the first reading of the bill be dispensed with that it be printed in the RECORD. Is there objection? [After a pause.] The Chair hears none.

The bill is as follows:

Be it enacted, etc.—

DEFINITIONS

SECTION 1. When used in this act and for the purposes of this act:

First. The term "carrier" includes any express company, sleeping-car company, and any carrier by railroad, subject to the interstate commerce act, including all floating equipment such as boats, barges, tugs, bridges and ferries; and other transportation facilities used by or operated in connection with any such carrier by railroad, and any receiver or any other individual or body, judicial or otherwise, when in the possession of the business of employers or carriers covered by this act: *Provided, however,* That the term "carrier" shall not include any street, interurban, or suburban electric railway unless such a railway is operating as a part of a general steam railroad system of transportation, but shall not exclude any part of the general steam railroad system of transportation now or hereafter operated by any other motive power;

Second. The term "adjustment board" means one of the boards of adjustment provided for in this act;

Third. The term "board of mediation" means the board of mediation created by this act;

Fourth. The term "commerce" means commerce among the several States or between any State, Territory, or the District of Columbia and any foreign nation, or between any Territory or the District of

Columbia and any State, or between any Territory and any other Territory, or between any Territory and the District of Columbia, or within any Territory or the District of Columbia, or between points in the same State but through any other State or any Territory or the District of Columbia or any foreign nation.

Fifth. The term "employee" as used herein includes every person in the service of a carrier (subject to its continuing authority to supervise and direct the manner of rendition of his service) who performs any work defined as that of an employee or subordinate official in the orders of the Interstate Commerce Commission now in effect, and as the same may be amended or interpreted by orders hereafter entered by the commission pursuant to the authority which is hereby conferred upon it to enter orders amending or interpreting such existing orders: *Provided, however,* That no occupational classification made by order of the Interstate Commerce Commission shall be construed to define the crafts according to which railway employees may be organized by their voluntary action, nor shall the jurisdiction or powers of such employee organizations be regarded as in any way limited or defined by the provisions of this act or by the orders of the commission.

Sixth. The term "district court" includes the Supreme Court of the District of Columbia; and the term "circuit court of appeals" includes the Court of Appeals of the District of Columbia.

This act may be cited as the railway labor act.

GENERAL DUTIES

SEC. 2. First. It shall be the duty of all carriers, their officers, agents, and employees to exert every reasonable effort to make and maintain agreements concerning rates of pay, rules, and working conditions, and to settle all disputes, whether arising out of the application of such agreements or otherwise, in order to avoid any interruption to commerce or to the operation of any carrier growing out of any dispute between the carrier and the employees thereof.

Second. All disputes between a carrier and its employees shall be considered, and, if possible, decided, with all expedition, in conference between representatives designated and authorized so to confer, respectively, by the carriers and by the employees thereof interested in the dispute.

Third. Representatives, for the purposes of this act, shall be designated by the respective parties in such manner as may be provided in their corporate organization or unincorporated association, or by other means of collective action, without interference, influence, or coercion exercised by either party over the self-organization or designation of representatives by the other.

Fourth. In case of a dispute between a carrier and its employees, arising out of grievances or out of the interpretation or application of agreements concerning rates of pay, rules, or working conditions, it shall be the duty of the designated representative or representatives of such carrier and of such employees, within 10 days after the receipt of notice of a desire on the part of either party to confer in respect to such dispute, to specify a time and place at which such conference shall be held: *Provided,* (1) That the place so specified shall be situated upon the railroad line of the carrier involved unless otherwise mutually agreed upon; and (2) that the time so specified shall allow the designated conferees reasonable opportunity to reach such place of conference, but shall not exceed 20 days from the receipt of such notice: *And provided further,* That nothing in this paragraph shall be construed to supersede the provisions of any agreement (as to conferences) then in effect between the parties.

Fifth. Disputes concerning changes in rates of pay, rules, or working conditions shall be dealt with as provided in section 6 and in other provisions of this act relating thereto.

BOARDS OF ADJUSTMENT—GRIEVANCES—INTERPRETATION OF AGREEMENTS

SEC. 3. First. Boards of adjustment shall be created by agreement between any carrier or group of carriers, or the carriers as a whole, and its or their employees.

The agreement—

(a) Shall be in writing;

(b) Shall state the group or groups of employees covered by such adjustment board;

(c) Shall provide that disputes between an employee or group of employees and a carrier, growing out of grievances or out of the interpretation or application of agreements concerning rates of pay, rules, or working conditions, shall be handled in the usual manner up to and including the chief operating officer of the carrier designated to handle such disputes; but, failing to reach an adjustment in this manner, that the dispute shall be referred to the designated adjustment board by the parties, or by either party, with a full statement of the facts and all supporting data bearing upon the dispute;

(d) Shall provide that the parties may be heard either in person, by counsel, or by other representative, as they may respectively elect, and that adjustment boards shall hear and, if possible, decide promptly all disputes referred to them as provided in paragraph (c). Adjustment boards shall give due notice of all hearings to the employee or employees and the carrier or carriers involved in the dispute;

(e) Shall stipulate that decisions of adjustment boards shall be final and binding on both parties to the dispute; and it shall be the duty of both to abide by such decisions;

(f) Shall state the number of representatives of the employees and the number of representatives of the carrier or carriers on the adjustment board, which number of representatives, respectively, shall be equal;

(g) Shall provide for the method of selecting members and filling vacancies;

(h) Shall provide for the portion of expenses to be assumed by the respective parties;

(i) Shall stipulate that a majority of the adjustment board members shall be competent to make an award, unless otherwise mutually agreed;

(j) Shall stipulate that adjustment boards shall meet regularly at such times and places as designated; and

(k) Shall provide for the method of advising the employees and carrier or carriers of the decisions of the board.

Second. Nothing in this act shall be construed to prohibit an individual carrier and its employees from agreeing upon the settlement of disputes through such machinery of contract and adjustment as they may mutually establish.

BOARD OF MEDIATION

SEC. 4. First. There is hereby established, as an independent agency in the executive branch of the Government, a board to be known as the board of mediation and to be composed of five members appointed by the President, by and with the advice and consent of the Senate. The terms of office of the members first taking office shall expire, as designated by the President at the time of nomination, one at the end of the first year, one at the end of the second year, one at the end of the third year, one at the end of the fourth year, and one at the end of the fifth year, after January 1, 1926. The terms of office of all successors shall expire five years after the expiration of the terms for which their predecessors were appointed; but any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the unexpired term of his predecessor. Vacancies in the board shall not impair the powers nor affect the duties of the board nor of the remaining members of the board. A majority of the members in office shall constitute a quorum for the transaction of the business of the board. Each member of the board shall receive a salary at the rate of $12,000 per annum, together with necessary traveling expenses and subsistence expenses, or per diem allowance in lieu thereof, subject to the provisions of law applicable thereto, while away from the principal office of the board on business required by this act. No person in the employment of or who is pecuniarily or otherwise interested in any organization of employees or any carrier shall enter upon the duties of or continue to be a member of the board.

A member of the board may be removed by the President for inefficiency, neglect of duty, malfeasance in office, or ineligibility, but for no other cause.

Second. The board shall annually designate a member to act as chairman. The board shall maintain its principal office in the District of Columbia, but it may meet at any other place whenever it deems it necessary. The board may designate one or more of its members to exercise the functions of the board in mediation proceedings. Each member of the board shall have power to administer oaths and affirmations. The board shall have a seal which shall be judicially noticed. The board shall make an annual report to Congress.

Third. The board may (1) appoint such experts and assistants to act in a confidential capacity and, subject to the provisions of the civil service laws, such other officers and employees, and (2) in accordance with the classification act of 1923 fix the salary of such experts, assistants, officers, and employees, and (3) make such expenditures (including expenditures for rent and personal services at the seat of government and elsewhere, for law books, periodicals, and books of reference, and for printing and binding, and including expenditures for salaries and compensation, necessary traveling expenses and expenses actually incurred for subsistence, and other necessary expenses of boards of arbitration, in accordance with the provisions of section 7) as may be necessary for the execution of the functions vested in the board, or in the boards of arbitration, and as may be provided for by the Congress from time to time. All expenditures of the board shall be allowed and paid on the presentation of itemized vouchers therefor approved by the chairman.

FUNCTIONS OF BOARD OF MEDIATION

SEC. 5. First. The parties, or either party, to a dispute between an employee or group of employees and a carrier may invoke the services of the board of mediation created by this act, or the board of mediation may proffer its services, in any of the following cases:

(a) A dispute arising out of grievances or out of the interpretation or application of agreements concerning rates of pay, rules, or working conditions not adjusted by the parties in conference and not decided by the appropriate adjustment board;

(b) A dispute which is not settled in conference between the parties, in respect to changes in rates of pay, rules, or working conditions;

(c) Any other dispute not decided in conference betwen the parties.

In either event the said board shall promptly put itself in communication with the parties to such controversy, and shall use its best efforts, by mediation, to bring them to agreement. If such efforts to bring about an amicable adjustment through mediation shall be unsuccessful, the said board shall at once endeavor as its final required action (except as provided in paragraph 3 of this section and in section 10 of this act), to induce the parties to submit their controversy to arbitration in accordance with the provisions of this act.

Second. In any case in which a controversy arises over the meaning or the application of any agreement reached through mediation under the provisions of this act, either party to the said agreement, or both, may apply to the board of mediation for an interpretation as to the meaning or application of such agreement. The said board shall upon receipt of such request notify the parties to the controversy, and after a hearing of both sides give its interpretation within 30 days.

Third. The board of mediation shall have the following duties with respect to the arbitration of disputes under section 7 of this act:

(a) On failure of the arbitrators named by the parties to agree on the remaining arbitrator or arbitrators within the time set by section 7 of this act, it shall be the duty of the board of mediation to name such remaining arbitrator or arbitrators. It shall be the duty of the board in naming such arbitrator or arbitrators to appoint only those whom the board shall deem wholly disinterested in the controversy to be arbitrated and impartial and without bias as between the parties to such arbitration. Should, however, the board name an arbitrator or arbitrators not so disinterested and impartial, then, upon proper investigation and presentation of the facts, the board shall promptly remove such arbitrator.

If an arbitrator named by the board of mediation, in accordance with the provisions of this act, shall be removed by such board as provided by this act, or if such an arbitrator refuses or is unable to serve, it shall be the duty of the board of mediation promptly to select another arbitrator, in the same manner as provided in this act for an original appointment by the board of mediation.

(b) Any member of the board of mediation is authorized to take the acknowledgment of an agreement of arbitration under this act. When so acknowledged, or when acknowledged by the parties before a notary public or the clerk of a district court or a circuit court of appeals of the United States, such agreement to arbitrate shall be delivered to a member of said board, or transmitted to said board, to be filed in its office.

(c) When an agreement to arbitrate has been filed with the board of mediation, or with one of its members, as provided by this section, and when the said board, or a member thereof, has been furnished the names of the arbitrators chosen by the parties to the controversy, it shall be the duty of the board of mediation to cause a notice in writing to be served upon said arbitrators, notifying them of their appointment, requesting them to meet promptly to name the remaining arbitrator or arbitrators necessary to complete the board of arbitration, and advising them of the period within which, as provided by the agreement to arbitrate, they are empowered to name such arbitrator or arbitrators.

(d) Either party to an arbitration desiring the reconvening of a board of arbitration to pass upon any controversy arising over the meaning or application of an award may so notify the board of mediation in writing, stating in such notice the question or questions to be submitted to such reconvened board. The board of mediation shall thereupon promptly communicate with the members of the board of arbitration, or a subcommittee of such board appointed for such purpose pursuant to a provision in the agreement to arbitrate, and arrange for the reconvening of said board or subcommittee, and shall notify the respective parties to the controversy of the time and place at which the board or the subcommittee will meet for hearings upon the matters in controversy to be submitted to it. No evidence other than that contained in the record filed with the original award shall be received or considered by such reconvened board or subcommittee, except such evidence as may be necessary to illustrate the interpretations suggested by the parties. If any member of the original board is unable or unwilling to serve on such reconvened board or subcommittee thereof, another arbitrator shall be named in the same manner and with the same powers and duties as such original arbitrator.

(e) The Interstate Commerce Commission, the Bureau of Labor Statistics, and the custodian of the records, respectively, of the Railroad Labor Board, of the mediators designated in the act approved June 1, 1898, providing for mediation and arbitration, known as the Erdman Act, and of the Board of Mediation and Conciliation created by the act approved July 15, 1913, providing for mediation, conciliation, and arbitration, known as the Newlands Act, are hereby authorized and directed to transfer and deliver to the board of mediation created by this act any and all papers and documents heretofore filed with or transferred to them, respectively, bearing upon the settlement, adjustment, or determination of disputes between carriers and their employees or upon mediation or arbitration proceedings held under or pursuant to the provisions of any act of Congress in respect to such disputes; and the President is authorized to require the transfer and delivery to the board of mediation, created by this act, of any and all such papers and documents filed with or in the possession of any agency of the Government. The President is authorized to designate a custodian of the records and property of the Railroad Labor Board, until the transfer and delivery of such records to the board of mediation and the disposition of such property in such manner as the President may direct.

PROCEDURE IN CHANGING RATES OF PAY, RULES, AND WORKING CONDITIONS

SEC. 6. Carriers and the representatives of the employees shall give at least 30 days' written notice of an intended change affecting rates of pay, rules, or working conditions, and the time and place for conference between the representatives of the parties interested in such intended changes shall be agreed upon within 10 days after the receipt of said notice, and said time shall be within the 30 days provided in the notice. Should changes be requested from more than one class or associated classes at approximately the same time, this date for the conference shall be understood to apply only to the first conference for each class; it being the intent that subsequent conferences in respect to each request shall be held in the order of its receipt and shall follow each other with reasonable promptness. In every case where such notice of intended change has been given, or conferences are being held with reference thereto, or the services of the board of mediation have been requested by either party, or said board has proffered its services, rates of pay, rules, or working conditions shall not be altered by the carrier until the controversy has been finally acted upon, as required by section 5 of this act, by the board of mediation, unless a period of 10 days has elapsed after termination of conferences without request for or proffer of the services of the board of mediation.

ARBITRATION

SEC. 7. First. Whenever a controversy shall arise between a carrier or carriers and its or their employees which is not settled either in conference between representatives of the parties or by the appropriate adjustment board or through mediation, in the manner provided in the preceding sections, such controversy may, by agreement of the parties to such controversy, be submitted to the arbitration of a board of three (or, if the parties to the controversy so stipulate, of six) persons: *Provided, however,* That the failure or refusal of either party to submit a controversy to arbitration shall not be construed as a violation of any legal obligation imposed upon such party by the terms of this act or otherwise.

Second. Such board of arbitration shall be chosen in the following manner:

(a) In the case of a board of three the carrier or carriers and the representatives of the employees, parties respectively to the agreement to arbitrate, shall each name one arbitrator; the two arbitrators thus chosen shall select a third arbitrator. If the arbitrators chosen by the parties shall fail to name the third arbitrator within five days after their first meeting, such third arbitrator shall be named by the board of mediation.

(b) In the case of a board of six the carrier or carriers and the representatives of the employees, parties respectively to the agreement to arbitrate, shall each name two arbitrators; the four arbitrators thus chosen shall, by a majority vote, select the remaining two arbitrators. If the arbitrators chosen by the parties shall fail to name the two arbitrators within 15 days after their first meeting, the said two arbitrators, or as many of them as have not been named, shall be named by the board of mediation.

Third. (a) When the arbitrators selected by the respective parties have agreed upon the remaining arbitrator or arbitrators they shall notify the board of mediation; and in the event of their failure to agree upon any or upon all of the necessary arbitrators within the period fixed by this act, they shall, at the expiration of such period, notify the board of mediation of the arbitrators selected, if any, or of their failure to make or to complete such selection.

(b) The board of arbitration shall organize and select its own chairman and make all necessary rules for conducting its hearings: *Provided, however,* That the board of arbitration shall be bound to give the parties to the controversy a full and fair hearing, which shall include an opportunity to present evidence in support of their claims and an opportunity to present their case in person, by counsel, or by other representative as they may respectively elect.

(c) Upon notice from the board of mediation that the parties, or either party, to an arbitration desire the reconvening of the board of arbitration (or a subcommittee of such board of arbitration appointed for such purpose pursuant to the agreement to arbitrate) to pass upon any controversy over the meaning or application of their award, the board, or its subcommittee, shall at once reconvene. No question other than or in addition to the questions relating to the meaning or application of the award, submitted by the party or parties in writing, shall be considered by the reconvened board of arbitration or its subcommittee.

Such rulings shall be acknowledged by such board or subcommittee thereof in the same manner and filed in the same district court clerk's office as the original award and become a part thereof.

(d) No arbitrator except those chosen by the board of mediation shall be incompetent to act as an arbitrator because of his interest in the controversy to be arbitrated or because of his connection with or partiality to either of the parties to the arbitration.

(e) Each member of any board of arbitration created under the provisions of this act named by either party to the arbitration shall be compensated by the party naming him. Each arbitrator selected by the arbitrators or named by the board of mediation shall receive from the board of mediation such compensation as the board of mediation may fix, together with his necessary traveling expenses and expenses actually incurred for subsistence, while serving as an arbitrator.

(f) The board of arbitration shall furnish a certified copy of its award to the respective parties to the controversy, and shall transmit the original, together with the papers and proceedings and a transcript of the evidence taken at the hearings, certified under the hands of at least a majority of the arbitrators, to the clerk of the district court of the United States for the district wherein the controversy arose or the arbitration is entered into, to be filed in said clerk's office as hereinafter provided. The said board shall also furnish a certified copy of its award, and the papers and proceedings, including testimony relating thereto, to the board of mediation, to be filed in its office; and, in addition, a certified copy of its award shall be filed in the office of the Interstate Commerce Commission.

(g) A board of arbitration may, subject to the approval of the board of mediation, employ and fix the compensation of such assistants as it deems necessary in carrying on the arbitration proceedings. The compensation of such employees, together with their necessary traveling expenses and expenses actually incurred for subsistence while so employed, and the necessary expenses of boards of arbitration, shall be paid by the board of mediation.

Whenever practicable, the board shall be supplied with suitable quarters in any Federal building located at its place of meeting or at any place where the board may conduct its proceedings or deliberations.

(h) All testimony before said board shall be given under oath or affirmation, and any member of the board shall have the power to administer oaths or affirmations. The board of arbitration, or any member thereof, shall have the power to require the attendance of witnesses and the production of such books, papers, contracts, agreements, and documents as may be deemed by the board of arbitration material to a just determination of the matters submitted to its arbitration, and may for that purpose request the clerk of the district court of the United States for the district wherein said arbitration is being conducted to issue the necessary subpœnas, and upon such request the said clerk or his duly authorized deputy shall be, and he hereby is, authorized, and it shall be his duty, to issue such subpœnas. In the event of the failure of any person to comply with any such subpœna, or in the event of the contumacy of any witness appearing before the board of arbitration, the board may invoke the aid of the United States courts to compel witnesses to attend and testify and to produce such books, papers, contracts, agreements, and documents to the same extent and under the same conditions and penalties as provided for in the act to regulate commerce approved February 4, 1887, and the amendments thereto.

Any witness appearing before a board of arbitration shall receive the same fees and mileage as witnesses in courts of the United States, to be paid by the party securing the subpœna.

SEC. 8. The agreement to arbitrate—

(a) Shall be in writing;

(b) Shall stipulate that the arbitration is had under the provisions of this act;

(c) Shall state whether the board of arbitration is to consist of three or of six members;

(d) Shall be signed by the duly accredited representatives of the carrier or carriers and the employees, parties respectively to the agreement to arbitrate, and shall be acknowledged by said parties before a notary public, the clerk of a district court or circuit court of appeals of the United States, or before a member of the board of mediation, and, when so acknowledged, shall be filed in the office of the board of mediation.

(e) Shall state specifically the questions to be submitted to the said board for decision; and that, in its award or awards, the said board shall confine itself strictly to decisions as to the questions so specifically submitted to it;

(f) Shall provide that the questions, or any one or more of them, submitted by the parties to the board of arbitration may be withdrawn from arbitration on notice to that effect signed by the duly accredited representatives of all the parties and served on the board of arbitration;

(g) Shall stipulate that the signatures of a majority of said board of arbitration affixed to their award shall be competent to constitute a valid and binding award;

(h) Shall fix a period from the date of the appointment of the arbitrator or arbitrators necessary to complete the board (as provided for in the agreement) within which the said board shall commence its hearings;

(i) Shall fix a period from the beginning of the hearings within which the said board shall make and file its award: *Provided*, That the parties may agree at any time upon an extension of this period;

(j) Shall provide for the date from which the award shall become effective and shall fix the period during which the award shall continue in force;

(k) Shall provide that the award of the board of arbitration and the evidence of the proceedings before the board relating thereto, when certified under the hands of at least a majority of the arbitrators, shall be filed in the clerk's office of the district court of the United States for the district wherein the controversy arose or the arbitration was entered into, which district shall be designated in the agreement; and, when so filed, such award and proceedings shall constitute the full and complete record of the arbitration;

(l) Shall provide that the award, when so filed, shall be final and conclusive upon the parties as to the facts determined by said award and as to the merits of the controversy decided;

(m) Shall provide that any difference arising as to the meaning, or the application of the provisions, of an award made by a board of arbitration shall be referred back for a ruling to the same board, or, by agreement, to a subcommittee of such board; and that such ruling, when acknowledged in the same manner, and filed in the same district court clerk's office, as the original award, shall be a part of and shall have the same force and effect as such original award; and

(n) Shall provide that the respective parties to the award will each faithfully execute the same.

The said agreement to arbitrate, when properly signed and acknowledged as herein provided, shall not be revoked by a party to such agreement: *Provided, however,* That such agreement to arbitrate may at any time be revoked and canceled by the written agreement of both parties, signed by their duly accredited representatives, and (if no board of arbitration has yet been constituted under the agreement) delivered to the board of mediation or any member thereof; or, if the board of arbitration has been constituted as provided by this act, delivered to such board of arbitration.

SEC. 9. First. The award of a board of arbitration, having been acknowledged as herein provided, shall be filed in the clerk's office of the district court designated in the agreement to arbitrate.

Second. An award acknowledged and filed as herein provided shall be conclusive on the parties as to the merits and facts of the controversy submitted to arbitration, and unless, within 10 days after the filing of the award, a petition to impeach the award, on the grounds hereinafter set forth, shall be filed in the clerk's office of the court in which the award has been filed, the court shall enter judgment on the award, which judgment shall be final and conclusive on the parties.

Third. Such petition for the impeachment or contesting of any award so filed shall be entertained by the court only on one or more of the following grounds:

(a) That the award plainly does not conform to the substantive requirements laid down by this act for such awards, or that the proceedings were not substantially in conformity with this act;

(b) That the award does not conform, nor confine itself, to the stipulations of the agreement to arbitrate; or

(c) That a member of the board of arbitration rendering the award was guilty of fraud or corruption; or that a party to the arbitration practiced fraud or corruption, which fraud or corruption affected the result of the arbitration: *Provided however,* That no court shall entertain any such petition on the ground that an award is invalid for uncertainty; in such case the proper remedy shall be a submission of such award to a reconvened board, or subcommittee thereof, for interpretation, as provided by this act: *Provided further,* That an award contested as herein provided shall be construed liberally by the court, with a view to favoring its validity, and that no award shall be set aside for trivial irregularity or clerical error, going only to form and not to substance.

Fourth. If the court shall determine that a part of the award is invalid on some ground or grounds designated in this section as a ground of invalidity, but shall determine that a part of the award is valid, the court shall set aside the entire award: *Provided, however,* That, if the parties shall agree thereto, and if such valid and invalid parts are separable, the court shall set aside the invalid part, and order judgment to stand as to the valid part.

Fifth. At the expiration of 10 days from the decision of the district court upon the petition filed as aforesaid, final judgment shall be entered in accordance with said decision, unless during said 10 days either party shall appeal therefrom to the circuit court of appeals. In such case only such portion of the record shall be transmitted to the appellate court as is necessary to the proper understanding and consideration of the questions of law presented by said petition and to be decided.

Sixth. The determination of said circuit court of appeals upon said questions shall be final, and, being certified by the clerk thereof to said district court, judgment pursuant thereto shall thereupon be entered by said district court.

Seventh. If the petitioner's contentions are finally sustained, judgment shall be entered setting aside the award in whole or, if the parties so agree, in part; but in such case the parties may agree upon a judgment to be entered disposing of the subject matter of the controversy, which judgment when entered shall have the same force and effect as judgment entered upon an award.

Eighth. Nothing in this act shall be construed to require an individual employee to render labor or service without his consent, nor shall anything in this act be construed to make the quitting of his labor or service by an individual employee an illegal act; nor shall any court issue any process to compel the performance by an individual employee of such labor or service without his consent.

EMERGENCY BOARD

SEC. 10. If a dispute between a carrier and its employees be not adjusted under the foregoing provisions of this act and should, in the judgment of the Board of Mediation, threaten substantially to interrupt interstate commerce to a degree such as to deprive any section of the country of essential transportation service, the board of mediation shall notify the President, who may thereupon, in his discretion, create a board to investigate and report respecting such dispute. Such board shall be composed of such number of persons as to the President may seem desirable: *Provided, however,* That no member appointed shall be pecuniarily or otherwise interested in any organization of employees or any carrier. The compensation of the members of any such board shall be fixed by the President. Such board shall be created separately in each instance, and it shall investigate promptly the facts as to the dispute and make a report thereon to the President within 30 days from the date of its creation.

There is hereby authorized to be appropriated such sums as may be necessary for the expenses of such board, including the compensation and the necessary traveling expenses and expenses actually incurred for subsistence of the members of the board. All expenditures of the board shall be allowed and paid on the presentation of itemized vouchers therefor approved by the chairman.

After the creation of such board and for 30 days after such board has made its report to the President, no change, except by agreement, shall be made by the parties to the controversy in the conditions out of which the dispute arose.

GENERAL PROVISIONS

SEC. 11. If any provision of this act, or the application thereof to any person or circumstance, is held invalid, the remainder of the act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

SEC. 12. There is hereby authorized to be appropriated the sum of $300,000, or so much thereof as may be necessary, for expenditure by the board of mediation, prior to July 1, 1927, in carrying out the provisions of this act.

SEC. 13. (a) Paragraph "Second" of subdivision (b) of section 128 of the Judicial Code, as amended, is amended to read as follows:

"Second. To review decisions of the district courts, under section 9 of the railway labor act."

(b) Section 2 of the act entitled "An act to amend the Judicial Code, and to further define the jurisdiction of the circuit court of appeals and of the Supreme Court, and for other purposes," approved February 13, 1925, is amended to read as follows:

"SEC. 2. That cases in a circuit court of appeals under section 9 of the railway labor act; under section 5 of 'An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes,' approved September 26, 1914; and under section 11 of 'An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914, are included among the cases to which sections 239 and 240 of the Judicial Code shall apply."

SEC. 14. Title III of the transportation act, 1920, and the act approved July 15, 1918, providing for mediation, conciliation, and arbitration, and all acts and parts of acts in conflict with the provisions of this act are hereby repealed, except that the members, secretary, officers, employees, and agents of the Railroad Labor Board, in office upon the date of the passage of this act, shall receive their salaries for a period of 30 days from such date, in the same manner as though this act had not been passed.

The CHAIRMAN. Under the agreement made in the House between the gentleman from New York [Mr. PARKER] and the gentleman from Kentucky [Mr. BARKLEY] there are two days of general debate. The gentleman from New York is recognized.

Mr. PARKER. Mr. Chairman, I recognize the gentleman from Ohio [Mr. COOPER] for 45 minutes. [Applause.]

Mr. COOPER of Ohio. Mr. Chairman and Members of the House, we are beginning the consideration to-day of H. R. 9463, a bill for the prevention and settlement of disputes between the railroad carriers and their employees.

There is no subject which in my humble opinion is more worthy of the earnest and careful attention of Congress. I believe that it was the late President Wilson who once said that "the railroads are the arteries through which flow the lifeblood of our Nation." It is vital to the country that the operation of its railroads be uninterrupted, that the owners of the same receive a fair return on capital invested, and that the pay and working conditions of the employees be adequate and just in order that the operation of our transportation systems shall be efficient and that the people and their goods may be carried safely and promptly from place to place.

To my mind this bill is one of the most favorable signs that has appeared in the troubled field of industrial relations for many years. I believe it marks the end of some very distressing and troublesome differences between the railroad managers and their employees as to the best method of facing and solving the problems of employment, conditions of service, and wage adjustments.

A MODEL FOR OTHER INDUSTRIES

More than that, I believe that this measure establishes a model for the solution of these great questions which if followed in other lines of industry will open the way for lasting industrial peace and prosperity and the settlement of differences between employers and employees through the exercise of reason, mutual consideration, and cooperation rather than by the methods of strife and force. Congress by making this bill law, will have placed its stamp of approval on the great principle that the interests of employers and employees are mutual and not conflicting and that the only sensible and effective way for them to settle their differences is to meet together at the conference table in a spirit of fellowship and forbearance rather than for either side to attempt to compel the other by resorting to methods of industrial warfare. [Applause.]

Congress and the country have spent several years arguing over world courts and leagues of nations and the best method of advancing the cause of world peace, but here to-day we have the opportunity of furthering the equally great cause of industrial peace. We must not let this wonderful opportunity pass by. If we can help capital and labor to settle their age-old differences and misunderstandings, then we will have promoted such an era of good feeling among men that international peace and cooperation will follow naturally and of its own accord.

MEANS MUCH TO RAILROAD WORKERS

Mr. Chairman, it is with a feeling of peculiar personal pleasure that I urge the enactment of this bill into law. For many years my lot was cast among the railroad workers who with their quick intelligence and cool judgment safely guide the train loads of precious human and commercial freight through rain and shine, over the mountains, and across the rivers of this broad land of ours, or who feed with the brawn of their muscle and the sweat of their brow the boilers which furnish the power by which the railroads operate. I know their trials and their troubles, and I understand, to some extent at least, their point of view. This bill means much to those men. It means assurance that they can receive fair pay and fair treatment without being compelled to live under the constant shadow that some day they may be called upon to enforce their rights by quitting their jobs, losing their means of livelihood, and their rights of service and chance of advancement. If I can be of material service in securing the enactment of this bill into law I shall feel that my service in Congress has been justified better, perhaps, than by any other single accomplishment since I first came to Washington, because I know that I will have helped do something which will be of the greatest benefit to my old fellow workers, as well as the railroad management and the public. [Applause.]

Mr. Chairman, the bill which is now before us, like most good things, is simple and easy to understand. It is a return to fundamental principles and does not offer any quack remedy for curing all conceivable labor troubles. But an analysis of it will show that it is a decided forward step toward peaceful settlement of labor disputes. Representatives of both the railroad managers and employees have assured the Committee on Interstate and Foreign Commerce that it establishes machinery which will remove practically all danger of strikes and tie-ups of transportation, and I may say in this connection that it is the spirit of cooperation which evidently inspired the representatives of the railroad companies and their employees in getting together behind this bill, which, to my mind, is the best possible assurance that the measure will be effective as law.

The railroad labor bill proposes to prevent and settle serious railroad labor disputes by a method of conference, mediation,

and arbitration. I have myself introduced several bills similar in principle to this bill, and therefore I am especially glad that the railroads and their employees have united in advocating the plan outlined in this measure.

HISTORY OF RAILROAD LABOR LEGISLATION

Before we commence to discuss in detail the provisions of the bill it is necessary, in order to understand it and the railroad labor situation better, to refer briefly to the history of railroad labor legislation and the movement resulting in this bill.

Before the Government took over the operation of the railroads during the World War provision was made under the Newlands law so that the Board of Mediation and Conciliation established by this act could intervene when a stoppage of traffic was threatened on any railroad operating in interstate commerce by labor difficulties. During the war railroad labor questions were handled by a series of national adjustment boards located in Washington.

When the time came for the return of the railroads by the Government to their owners there was a wide range of opinion in and out of Congress as to what labor provisions should be inserted in the transportation act of 1920. Finally, Title III of the transportation act creating the present Railroad Labor Board was adopted as a compromise by the conferees. Congress had to take the Railroad Labor Board or nothing.

I had serious doubts from the beginning about the practicability of the board, and so did most others who had studied the question. These doubts were soon confirmed, and on several occasions since 1920 I introduced bills to abolish the board, proposing to reestablish the machinery of mediation, conciliation, and arbitration provided in the Newlands law.

The Railroad Labor Board has not been satisfactory to either the railroad managers, the employees, or the public, but has only been a source of trouble since it was established. Some railway managers and employees have refused to recognize the board and then again at times both railway managers and employees would refuse to assume the responsibility of making labor settlements, but would "pass the buck" to the board, which has become simply an agency for airing petty grievances of all kinds.

It has become generally recognized that Title III of the transportation act, which created the Railroad Labor Board, should be changed.

REPUBLICAN PARTY PLATFORM FAVORS BILL

The national Republican Party platform of 1924 contained the following provision:

> The labor provisions of the present law should be amended whenever it appears necessary to meet changed conditions. Collective bargaining, mediation, and voluntary arbitration are the most important steps in maintaining peaceful labor relations and should be encouraged. We do not believe in compulsory action at any time in the settlement of disputes. Public opinion must be the final arbiter in any crisis which so vitally affects public welfare as the suspension of transportation. Therefore the interests of the public require the maintenance of an impartial tribunal which can in an emergency make an investigation of the facts and publish its conclusions. This is essential as the basis for popular judgment.

This plank in the Republican Party platform of 1924 is identical in principle with the provisions of the bill which we are now considering.

The Democratic platform of 1924 contains the following:

> The labor provisions of the transportation act of 1920 have proven unsatisfactory in settling differences between employer and employees * * *.
>
> * * * It must therefore be rewritten that the high purposes which the public welfare demands may be accomplished.

President Coolidge, in his message to Congress December 6, 1923, said:

> The settlement of railroad-labor disputes is a matter of grave public concern. The Labor Board * * * is not altogether satisfactory to the public, the employees, or the companies. If a substantial agreement can be reached among the groups interested there should be no hesitation in enacting such agreement into law.

The President in his message to Congress December 3, 1924, again touched on this question as follows:

> Another matter before the Congress is legislation affecting the labor sections of the transportation act. Much criticism has been directed at the workings of this section. * * * It would be helpful if a plan could be adopted, which, while retaining the practice of systematic collective bargaining with conciliation and voluntary arbitration of labor differences, could also provide simplicity in relations and more direct local responsibility of employees and managers. But such legislation will not meet the requirements of the situation unless it recognizes the principle that the public has a right to the uninterrupted service of transportation, and therefore the right to be heard when there is danger that the Nation may suffer a great injury through the interruption of operations because of labor disputes.

PRESIDENT COOLIDGE BRINGS PARTIES TOGETHER

I believe at this point I can say without any feeling of partisanship that the position of President Coolidge had a great influence in bringing the railroad managers and the representatives of the employees together on the subject of railroad labor legislation. [Applause.] He urged that they come to an understanding and that they should cooperate, and it is his excellent advice that has been followed and has borne fruit in the provision of the bill now before us.

It was not the easiest task in the world to bring the railroad executives and the labor officials together and agree upon the draft of a bill. But they did get together, however, and it took months of hard work by the biggest, broadest, and wisest leaders on both sides to accomplish the result.

During the year 1925 the railroad executives and the officials of the railroad labor organizations held conferences to consider plans for changing the present labor section of the transportation act. A subcommittee was created which was instructed to draft a bill and report back to the full committees as soon as possible. Too much credit can not be given to the subcommittee for the important work it accomplished in the drafting of the bill.

In due time the subcommittee reported to the full committees of railroad executives and labor officials, and the draft of the bill was approved and indorsed by the executives representing 80 per cent of the railroad mileage of the country and the officials of 20 railroad labor organizations.

I desire to say a word about the four men who, I understand, constituted the subcommittee. I believe they should be congratulated and that they deserve recognition for the splendid service they have performed.

THE MEN WHO WORKED OUT THE PLAN

It has been my good fortune to have been personally acquainted with three of them for years. The subcommittee consisted of Mr. David Robertson, president of the Brotherhood of Locomotive Firemen and Enginemen, and Mr. William N. Doak, vice president of the Brotherhood of Railroad Trainmen, representing the employees; Mr. Elisha Lee, vice president of the Pennsylvania Railroad system, and Mr. J. G. Walber, vice president of the New York Central Railroad system representing the railway executives. I have known Mr. Robertson for many years. We were boys together out in Youngstown, Ohio, and worked together on the railroad. We have not always agreed on economic questions, but I have always held him in high regard and recognized his ability, sterling honesty, and deep convictions, knowing he was working for what he believed to be for the best interests of the members of the great labor organizations of which he is the president.

When I first came to Congress 11 years ago I met William N. Doak, who was the other labor representative on the subcommittee, and I want to say I have never met a fairer, wiser, or broader representative of labor in my legislative or other experience. [Applause.] The representatives of the executives on the subcommittee, Mr. Lee and Mr. Walber, are well known by the American people for their honesty, integrity, and ability in all questions relating to our great transportation systems.

The report of the subcommittee and the draft of the bill was approved by the full committee of railroad executives and the railroad labor organizations. Whereupon representatives of the carriers and their employees reported to the President that they had agreed upon the draft of legislation embodying a substitute for Title III of the transportation act of 1920. At this point I want to call your attention to the message of the President to Congress on December 8, 1925, in which he said:

BILL MARKS NEW EPOCH

> I am informed that the railroad managers and their employees have reached a substantial agreement as to what legislation is necessary to regulate and improve their relationship. Whenever they bring forward such proposals, which seem sufficient also to protect the interests of the public, they should be enacted into law.
>
> It is gratifying to report that both the railroad managers and railroad employees are providing boards for the mutual adjustment of differences in harmony with the principles of conference, conciliation, and arbitration. The solution of these problems ought to be an example to all other industries. Those who ask the protections of civilization should be ready to use the methods of civilization. * * *
>
> The manifest inclination of the managers and employees of the railroads to adopt a policy of action in harmony with these principles marks a new epoch in our industrial life.

On January 8, 1926, identical bills expressing this agreement of the parties were introduced in the House and Senate, respectively, by the chairman of the Committee on Interstate

and Foreign Commerce of the House and the chairman of the Committee on Interstate Commerce of the Senate.

The House committee has held extended hearings giving ample opportunity to the proponents and opponents of the bill to present their views. In addition to the representatives of the carriers and their employees the chairman of the executive council of the National Civic Federation presented testimony in support of the bill. The American Short Line Railroad Association offered a statement to the effect that the short-line railroads did not oppose the enactment of the proposed law. Representatives of various associations of manufacturers presented suggestions for a few amendments, which were given careful consideration.

PRACTICAL MEANS FOR GOVERNMENT TO HELP

The principal point impressed upon the committee during the hearings was the desirability of giving the managers and employees of this most important national industry the aid and cooperation of the legislative, executive, and judicial power of the Government in the settlement of industrial controversies by the means which practical men, who have devoted their lives to this industry, believe are best adapted to maintain satisfactory relations between employers and employees.

Both Senate and House committees have been holding hearings on the bill for several weeks. The House committee has reported the bill out substantially as introduced with the recommendation that it be passed. That brings us to a consideration of the provisions of the bill. The bill provides it shall be the duty of all carriers, their officers, agents, and employees to exert every reasonable effort to make and maintain agreements concerning rates of pay, rules, and working conditions, and to settle all disputes, whether arising out of application of such agreements or otherwise, in order to avoid any interruption to commerce.

The provisions of the bill require, in the first place, that all disputes between carriers and their employees shall be adjusted by agreement if possible; that the relations of the parties shall be controlled by agreements; that there shall be created boards of adjustment, composed of equal representatives of managers and employees.

ADJUSTMENT BOARDS NOT NEW PROCEDURE

This is not a new procedure. For years it has been the custom of many railroads and of their employees to adjust disputes that might arise from time to time by boards of adjustment, members of which understand the problems by reason of their technical knowledge of the industry. These boards may be established by an individual carrier and its employees of any class, or they can be regional or national in scope, as may be agreed upon. These adjustment boards are established not for the purpose of having jurisdiction over the question of changes in wages and working conditions, but of grievances or disputes growing out of a misunderstanding of the interpretation or application of agreements concerning rates of pay, rules, or working conditions.

The adjustment boards must be chosen by each party in such a way as they may determine. They are not Government boards, but boards chosen by the parties and paid by them.

BOARD OF MEDIATION

The bill also provides that all questions relating to change in wages and working conditions shall be first considered by the parties in conference. If no agreement is reached in conference, the matter shall then be taken up by the Board of Mediation, which is created by the bill and is composed of five members appointed by the President, by and with the advice and consent of the Senate. This is a Government board and paid by the Government, and no person in the employment of or who is pecuniarily or otherwise interested in any organization of employees or any carrier is eligible to be a member of the board, or in other words the membership of the board is composed entirely of representatives of the public.

The parties, or either party, to a dispute between employees and a carrier, if unable to agree or settle the dispute in conference, may invoke the services of the board of mediation, or the board of mediation may proffer its services in any dispute arising out of grievances or out of the interpretation or application of agreements concerning rates of pay, rules, or working conditions not adjusted by the parties in conference; or a dispute which is not settled in conference between the parties in respect to changes in the rates of pay, rules, or working conditions. If a dispute should arise between a carrier and its employees of a serious character, it is the duty of the mediation board to promptly put itself in touch with the parties to the controversy, and to use its best efforts by mediation to bring them to agreement. If such efforts to bring about an amicable adjustment of the dispute or controversy through mediation are unsuccessful, it is the duty of the board of mediation to try and induce the parties to submit to arbitration. I have great faith in mediation for the settlement of labor disputes. The Newlands Act of 1913 provided for mediation, which plan was in effect until Title III of the transportation act became law in 1920.

More than 90 per cent of the cases that came before the board of mediation under the Newlands Act were adjusted and approved by both sides to the dispute.

In the four-year period ending June 30, 1917, the board of mediation created under the Newlands Act had before it 71 controversies. Fifty of these were settled wholly by mediation, 6 by mediation and arbitration, 3 by contestants without the aid of mediation, and 1 by an act of Congress.

BOARD OF ARBITRATION

If the parties to dispute fail to agree and if the board of mediation is unable to bring them together and arbitration is agreed upon, then the board of arbitration is created by each party selecting one or two representatives, as they may prefer, as the board may consist of three or six. The parties themselves select the one or two neutral arbitrators, if they can do so. If the parties can not agree, then the board of mediation must select the neutral arbiter. If the parties agree to arbitrate, then the award of the board of arbitration shall be conclusive on the parties as to the merits and facts of the controversy submitted to arbitration, and unless within 10 days after the filing of the award a petition is filed to impeach the award on the grounds set forth in the bill, the court shall enter judgment on the award, which judgment shall be final and conclusive on the parties.

EMERGENCY BOARD

If a dispute between a carrier and its employees be not adjusted through the process of conference, adjustment, mediation, or arbitration, the President is empowered to create a board of outstanding representatives of the public who can investigate, with the aid of the permanent Board of Mediation, the Interstate Commerce Commission, the Department of Labor, and all other agencies of Government, and bring to bear upon the parties the pressure of the highest governmental authority either to adjust their differences by voluntary agreement or to consent to submit them to arbitration. If this pressure shall fail in itself to bring about a settlement, this emergency board will then be able in its report to give to the public adequate and intelligible information regarding the merits of the contentions of the parties, and to crystallize public opinion in support of that party or that program which should be supported in the public interest. This temporary emergency board will be able to express and to mobilize public opinion to an extent impossible to any permanent board or any agency of Government which has been heretofore created for that purpose. It is also highly important to point out that during the period of investigation and for 30 days thereafter the parties to the controversy are bound under the proposed law to maintain unchanged the conditions out of which the dispute arose, thereby assuring the parties and the public that the emergency board will have the full and unembarrassed opportunity to exert its authority and fulfill its important function.

WILL PROMOTE INDUSTRIAL PEACE AND HARMONY

Mr. Chairman, in conclusion I desire to say that the one thing that impressed me more than anything else during the hearings held by the committee on this bill was the spirit of the railway managers and employees, and their earnest desire to cooperate, in promoting industrial peace and harmony, by securing the enactment into law of provisions which will enable them to settle their differences in conference. I am confident that nearly every industrial dispute can be settled if both sides will sit down in a spirit of fairness and justice to discuss matters at issue around the council table.

The Committee on Interstate and Foreign Commerce presents this bill to the House for your consideration, recommends its passage as both the most practical and advanced legislation for the settlement of labor controversies that has ever been presented to Congress. [Applause.]

Mr. BLANTON. Now, will the gentleman yield?

Mr. COOPER of Ohio. Yes.

Mr. BLANTON. May I say that if all of the 600,000 railroad employees most vitally affected by this bill were as fair and reasonable and honest and capable and efficient and as splendid gentlemen as are the gentleman from Ohio [Mr. COOPER] and our colleague from Minnesota [Mr. CARSS], we would not need any law and would not have any strikes, but I want to say this to the gentleman. The Erdman Act in 1898 provided the machinery which required the status quo to be maintained during arbitration and required the parties in arbitration to agree to faithfully accept the award and

abide by it. It provided a court of equity to enforce it, as far as equity provisions would allow, and it gave to the public other rights, for it prevented the men from changing the status quo for at least three months without giving 30 days' notice, and also provided that the award should last for one year, and all the men and all the railroads agreed to that legislation, and yet it did not bring about the desired results, did it?

Mr. COOPER of Ohio. Can the gentleman name me any one serious strike, except one, since the Erdman Act was passed?

Mr. BLANTON. I will name the gentleman one. President Cleveland stopped the Debs strike in 1894 with troops. But peaceful conditions lasted until 1913, and then there was a condition similar to the one that exists to-day, only it was more intense. The employees said to Congress that if you do not pass the Newlands Act just like we have agreed to it with the railroads, there will be a strike.

Mr. COOPER of Ohio. Mr. Chairman, I yielded to the gentleman to ask a question, but I did not yield for a speech, and he is going to have time of his own and he can give all this information to the House.

Mr. BLANTON. I want to ask if in 1913 they did not come in with the Newlands Act and say that if Congress did not pass the law as it was written—if they changed the dotting of an "i" or the crossing of a "t" there is going to be a strike—and was not the Newlands Act pushed thus through?

Mr. COOPER of Ohio. No; I did not know that.

Mr. BLANTON. The RECORD shows that——

Mr. BARKLEY. I will answer it; they did not.

Mr. BLANTON. The RECORD shows that, and if the gentleman will look at the excerpts of the debate which I have copied from the statements of Members in the Senate and House, and published in Monday's RECORD, they will show that condition prevailed.

Mr. COOPER of Ohio. I will be glad to listen to the gentleman when he takes the floor.

Mr. KEARNS. Will the gentleman yield?

Mr. COOPER of Ohio. I will.

Mr. KEARNS. There have been a great many protests, the gentleman knows, that have come from various parts of the country, claiming that this bill does not properly take care of the public interest. Will the gentleman for a moment direct his attention to that proposition and tell the House whether this bill does protect the public interest, and wherein?

Mr. COOPER of Ohio. The bill creates a board of mediators composed entirely of public members appointed by the President, by and with the advice and consent of the Senate, and, in addition, it creates an emergency board appointed by the President.

Mr. KEARNS. That board is composed of five members.

Mr. COOPER of Ohio. The Board of Mediation; yes.

Furthermore, let me say that the bill surely is as good as what we have at the present time. There is no change I can see when it comes to protecting the public.

Mr. KEARNS. Let me ask the gentleman this question: Under this bill the employer and employee can get together and rearrange their wage schedule in any way that would be agreeable to both parties?

Mr. COOPER of Ohio. Certainly.

Mr. KEARNS. That would necessitate, or it might necessitate, a raise in the freight rates?

Mr. COOPER of Ohio. Possibly it might.

Mr. KEARNS. Under this bill would the railroads have the right in that event to raise the freight rates and passenger rates to meet that increase?

Mr. COOPER of Ohio. That would be a question that would have to be passed upon by the Interstate Commerce Commission.

Mr. KEARNS. That is what I wanted to know.

Mr. COOPER of Ohio. It is their duty to protect the public. The question of fixing an agreement on wages is primarily private, and the Interstate Commerce Commission and no other public body can interfere with that private contract.

The Supreme Court of the United States has already ruled on that; but when it comes to the question of rates, that is a public question, and the Interstate Commerce Commission will fix that.

Mr. BLACK of Texas. If the gentleman holds that position, why does he object to the Hoch amendment, which makes the situation perfectly clear?

Mr. COOPER of Ohio. Did you hear me say I was opposed to the Hoch amendment?

Mr. BLACK of Texas. No.

Mr. COOPER of Ohio. I am not for it. Now let me read to the gentleman from Texas what the Supreme Court has said on the question of wage agreements. There was placed on all of our desks this morning a paper sent out by one of the farm organizations, and I want to read to you what it says. I read:

> Under the present law the Railroad Labor Board can not make a wage award without the approval of one of the representatives of the public on the board. If the railroad managers and their employees make an agreement about wages, the board can suspend the agreement until it finds out what effect it will have upon railroad rates. That is a clear-cut, definite protection which Congress gave six years ago to prevent new and excessive burdens being put upon railroad service. Now, in the bill you are about to consider it is proposed to abolish the Railroad Labor Board and permit the parties signatory thereto to make wage agreements, without any public body having control over such agreements.

There is not a man in this House but knows that the Railroad Board can not suspend any wage agreement made between the railroad managers and the employees.

Mr. BLACK of Texas. This would leave us without such protection.

Mr. COOPER of Ohio. I say they have no power to suspend an agreement.

Mr. BLACK of Texas. They have the power under the present law.

Mr. COOPER of Ohio. Where do they have the power under the present law to suspend agreements?

Mr. BLACK of Texas. Section 307 so states. That is the section, as I now remember it.

Mr. COOPER of Ohio. The Supreme Court says in its ruling that they have not that power.

Mr. BLACK of Texas. It would be within the province of Congress to amend the railway labor act.

Mr. COOPER of Ohio. The Supreme Court of the United States said this in its ruling:

> It is also equally true that, as the right to fix by agreement between the carrier and its employees a standard of wages to control their relations is primarily private, the establishment and giving effect of an agreed-on standard is not subject to be controlled or to be prevented by public authority.

Mr. HOCH. Mr. Chairman, will the gentleman yield there?

Mr. COOPER of Ohio. Yes.

Mr. HOCH. Of course, the gentleman realizes that the Supreme Court was passing upon the question of the right to set aside a private contract. The amendment which I propose does not in any way infringe upon that proposition.

Mr. COOPER of Ohio. I did not say it did.

Mr. HOCH. I do not propose to lodge any power in the Interstate Commerce Commission to set aside a contract, but I propose to retain now in the Interstate Commerce Commission the power they now have to say if you make a contract, the contract with the railroad shall control.

Mr. NEWTON of Minnesota. Mr. Chairman, will the gentleman yield?

Mr. COOPER of Ohio. Yes.

Mr. NEWTON of Minnesota. There is nothing in the bill as it is drawn that in any way impairs or modifies the present powers of the Interstate Commerce Commission to do that very thing.

Mr. COOPER of Ohio. I think that is right.

Mr. HOCH. If that be true, what objection can there be to making it clear that we reserve the right to the Interstate Commerce Commission to say that it comes within reasonable expenditures in passing that burden on to the public?

Mr. HUDDLESTON. Mr. Chairman, will the gentleman yield?

Mr. COOPER of Ohio. Yes.

Mr. HUDDLESTON. The amendment of the gentleman from Kansas [Mr. HOCH] does not make it clear. It adds confusion. The explanation of the gentleman's amendment is that hereafter the Interstate Commerce Commission shall have the power which it does not have at the present time, and therefore instead of the gentleman's amendment clarifying the matter, it makes it less clear than it was before.

Mr. COOPER of Ohio. Mr. Chairman, I surrender the floor and yield back the balance of my time. [Applause.]

Mr. PARKER. Mr. Chairman, under an agreement with the gentleman from Kentucky [Mr. BARKLEY], I recognize the gentleman from Maine [Mr. NELSON] for 20 minutes in opposition to the bill.

The CHAIRMAN. The gentleman from Maine is recognized for 20 minutes.

Mr. NELSON of Maine. Mr. Chairman and gentlemen of the committee, I find myself in the unpleasant situation of differing very materially in thought from my esteemed asso-

ciates on the Interstate Commerce Committee. I realize that this reflects on my good judgment, and that it must be I, rather than the rest of the regiment, that is out of step. However, I have attended the hearings on this bill, listened to the witnesses, studied the testimony, given the matter my careful and prayerful attention; and there are considerations here that appeal to me so strongly, the interests of my State are so involved, that I desire briefly to express my views on this legislation, relying somewhat on that spirit of charity and forbearance that characterizes and enriches our associations in this body.

I come from a State situated in the extreme northeastern section of this great country, where the transportation problem is to-day a very vital issue. It is a long haul from the source of raw materials to our mills; it is a long haul back to market. Transportation charges to-day are such that the growth of my State is retarded, its industries threatened with extinction, and the welfare of our great agricultural and industrial classes imperiled. At the present time there is pending before the Interstate Commerce Commission a request for increased freight charges in eastern Maine, the result of which, if granted, I can only contemplate with dismay.

The railroads of my State, at peace with their employees, have just begun to turn the corner, just begun to recover from the effects of war-time operation, and we in Maine had begun to believe that, in a time not too far removed for joyful hope, the increased prosperity of those roads might be reflected in a much-needed and beneficial reduction of freight charges.

Now, I am in sympathy with organized labor, its needs, and aspirations. I believe that we should safeguard their every essential right. I would go with them as far as any legislator can honestly go, and that is to a point where I believe that the interests of the minority conflict with the interests of the whole. To go further than that would be to justify the suspicion, somewhat prevalent, that organized minorities and selfish interests play a disproportionate part in the shaping of legislation here, and that the great mass of our people are not truly represented.

The situation that challenges our attention to-day is this: A railway labor bill is presented here for enactment that, in my opinion, wipes out every existing public safeguard [applause], and coincident with its presentation comes a demand from railroad labor for wage increases variously estimated at from $250,000,000 to $500,000,000. My friends, I do not know what sort of farm relief legislation we are going to pass at this Congress; but, in my opinion, if this bill is enacted agriculture is going to need relief more than ever before.

I believe a study of the situation will convince the investigator that the carriers in favor of this measure, with possibly a few exceptions, represent principally the larger and the more prosperous eastern roads, roads subject to the recapture clause, roads that are able and willing to purchase industrial peace by distributing to their employees the money that would otherwise be returned to the Government.

With the roads of my State, with most of the roads in the West and South, the situation is far different. The proposed wage demands, if granted, would indefinitely postpone freight reductions, if they did not necessitate freight increases.

As has been stated, there are three parties interested in these railroad labor disputes—the carriers, their employees, and the public. Some months ago representatives of the first two parties held a disarmament conference and unanimously voted to disarm the third party [laughter], retaining at the same time all their own weapons of offense and defense. You may study the provisions of the bill as you will and you will find that statement to be true.

Mr. BLANTON. Will the gentleman permit an interruption right there?

Mr. NELSON of Maine. I will, but I hope to be able to finish in the time allotted to me.

Mr. BLANTON. This will be the only interruption I will make. They not only retained all their own arms but they took over all the arms of the public.

Mr. NELSON of Maine. I so understand it.

The carriers and their employees entered upon a composition of their difficulties and upon the drafting of this bill under the mistaken assumption that the matter was one of personal contract between themselves. The public was not represented in that conference and had no voice. It is said that each group made substantial concessions to the other, all predicated, however, on the proposition that Congress in return should wipe from the statute books all the public safeguards now existing for the benefit of that great unorganized majority which, in the final analysis, must pay all the bills.

In the course of the discussion of this measure such a variety of opinion was manifest as to what were the rights of the public in interstate commerce, what was the authority of Congress, and what was the efficacy of existing laws, that I want to say just a word on that subject, although I do not claim to speak with authority.

The founders of this Republic, those worthy men who formulated and penned the Constitution of the United States, recognized the rights of the public in interstate commerce and gave expression to that right in the clause which confers upon Congress the power to regulate and control interstate commerce. The courts have sustained that constitutional authority even to the point of holding that we may, by appropriate legislation, provide for compulsory arbitration of these labor difficulties. Subsequent acts of Congress have recognized and given expression to that right. By a process of evolution the accepted conception of the public interest has broadened with the years.

The first national act passed for the settlement of railroad labor disputes constituted a recognition of the right of the public to continuous and uninterrupted service, and the right, in case of critical labor disputes, to know the true facts of the controversy. The Erdman Act, passed in 1898, marked a distinct step in advance in the recognition and protection of the public interest; in that, beside providing for conciliation, mediation, and voluntary arbitration, it contained the drastic antistrike and antilockout clause that has already been referred to.

You are told by the proponents of this measure that never before has labor made such concessions as in the present bill. The Erdman Act was indorsed by the railroad labor organizations and contained this antistrike clause, compared to which the ambiguous status quo clause of the present bill is but a pale preliminary. [Applause.]

Some of you who have had no opportunity of reading the hearings on this measure may be laboring under the impression that here, in the case of this bill, for the first time have the carriers and their employees met, compromised, agreed, and asked Congress to enact that agreement into law, promising to abide by it if enacted without change. As has already been suggested, such is not the fact, nor is this law dignified by any such distinction. The Newlands Act was presented to Congress in 1913 exactly as this bill is now presented by the same parties, with the same representations, the same demands, the same rosy promises. On page 237 of the committee hearings appears a part of the then discussion in the Senate, in the course of which Senator Pomerene, of Ohio, made these statements:

> Mr. President, I am in favor of this bill as it is written, and though in some respects I would prefer to see a change, I will not vote to change a single word in it, and for the reasons I shall state: It appears that before the committee the railway companies, through their presidents and representatives, and the railway men's organizations, through their chiefs, said that this bill represented months of work; that while there were slight differences of opinion, they all agreed to accept it as a solution of the problem. A number of the witnesses, when interrogated before the committee, said, in substance, that if the bill was passed as it was written they did not believe there would be a single railroad or a single organization that would refuse to accept the plan of settlement here adopted.
>
> It stands to reason that when they come before the Congress asking that this plan be incorporated into a statute no one of these parties would be in a position where he could honorably say, "I will not accept the plan of mediation or of arbitration which is therein contained."

Here is an absolute echo of the words spoken in the committee room during the consideration of this bill. The Newlands Act was not a solution of the problem. No problem is solved until it is rightly solved, and you can not solve a problem involving three equations by absolutely ignoring one of them.

Reverting for a moment to the three laws passed between 1888 and 1913, it will be noted that public thought had not during that time progressed beyond the conception that the only interest the public had in interstate commerce was the right of continuous and uninterrupted service. With the passage of the transportation act of 1920 we find for the first time statutory expression of the concept that the public has an interest, not only in uninterrupted service, but in the amount of wages paid as reflected in freight rates. [Applause.]

Section 307, Title III, of the transportation act authorizes the Railroad Labor Board to suspend an agreement between parties with respect to wages until it can determine whether or not the proposed increase would require a readjustment of transportation rates.

Mr. PARKER. Will the gentleman yield?

Mr. NELSON of Maine. I will.

Mr. PARKER. Has any such suspension ever been asked or granted?

Mr. NELSON of Maine. The very fact that such a law exists, whether legal or illegal, is a deterrent upon the attempted making of uncontrolled wage agreements. I believe the law is constitutional and effective. The bill was reported out of two great committees of the House and Senate containing excellent constitutional lawyers, with able chairmen. It is the law and has been the law for six years. It has never been successfully questioned, and I believe it is the law of the land to-day, and a very excellent law.

Title III provides something more than that—it provides that one member of the public group must join in any wage award made by the board. If you pass this bill without amendment, you repeal Title III of the transportation act; you destroy the only existing preventive remedy against uncontrolled wage agreements; you remove the representative of the public from wage negotiations; and at a time like the present, when there is a universal demand and need for reduced freight rates, and a pending demand for increased wages, you deprive the public of any voice or control in matters that are to them of supreme importance. [Applause.]

If you pass this bill, as I assume you will, and repeal Title III, the only surviving hope the public has is in the power of the Interstate Commerce Commission to refuse to recognize an unreasonable wage agreement as a proper element of cost of service in fixing freight and passenger rates. As suggested by the Hoch amendment, even this provision is endangered by the pending bill. Section 9 of this act, paragraph 2, provides that in the case of an arbitration the award shall be filed in the office of the appropriate district court and judgment entered thereon. Thus the decision becomes a decree of a Federal court. It was suggested during the hearings that under the full faith and credit provision of the Constitution a quasi Federal court like the Interstate Commerce Commission could not refuse to give full faith and credit to a decree of a Federal district court; that such refusal to consider in rate making a wage charge thus fixed on the carrier by law would constitute confiscatory legislation and be null and void. The proponents of this measure stated that they had no desire to curtail this power of the Interstate Commerce Commission. Their attention was called to this danger by the gentleman from Kansas [Mr. HOCH]. They refused to allow an amendment to the effect that nothing in the act should preclude the Interstate Commerce Commission from considering the merits of any such arbitration award when determining freight or passenger rates, and they refused a clause allowing the commission to intervene in the public interest before the award became a court judgment.

In my opinion, if you pass this bill without amendment, you destroy every existing public safeguard that time and experience have given us.

Mr. BLANTON. Will the gentleman yield?

Mr. NELSON of Maine. Yes.

Mr. BLANTON. Is it not a fact that this board of mediation has nothing in the world to do with fixing wage schedules, and is it not a further fact that it has no power of compulsory investigation?

Mr. NELSON of Maine. I am coming to that. I think all that is true, and even more than that.

The CHAIRMAN. The time of the gentleman from Maine has expired.

Mr. PARKER. I will yield the gentleman 10 minutes more.

Mr. NELSON of Maine. I say if you pass this act in its present form, without amendment, you destroy at one blow all those public safeguards that time and experience have given us. You deny public rights never before questioned. You declare public interest a myth, and public control a failure. You reverse the enlightened thought and policy of preceding Congresses, and turn back the hands on the clock of recorded progress in public interest 40 years.

Mr. MURPHY. Mr. Chairman, will the gentleman yield?

Mr. NELSON of Maine. Yes.

Mr. MURPHY. I am not going to ask a frivolous question. I am very serious about this. The gentleman has made the statement several times in the course of his remarks that the public is losing what it now has. Will the gentleman please be specific and tell us one thing that the public loses by the adoption of this bill?

Mr. NELSON of Maine. I thought that I had already done that.

Mr. MURPHY. I wish the gentleman would pin his remarks to one thing that the public will lose.

Mr. NELSON of Maine. I believe that Title III of the transportation act is sound law and of great public benefit and protection. That law as drafted has existed for six years and has never been upset by any court. It provides that the Railroad Labor Board may suspend an unreasonable agreement as to wages. It also provides that one member of the public group must join in any wage award made by the board. As the law stands to-day the Interstate Commerce Commission can refuse to consider in the making of rates an unreasonable wage agreement, and I maintain that even this last provision is endangered by the present bill.

I believe in self-government in industry. I would encourage these parties to set up their own machinery of adjustment and to use it. I would assist them in any legitimate agreement, subject only to the paramount rights of the public. In any dispute I would allow them to exhaust their every last remedy before governmental interference. But when those remedies are exhausted, when their machinery has broken down, when disaster threatens the whole social structure, then I believe this Government should exercise the power inherent in it and take every proper and reasonable step to avert a great national catastrophe.

Mr. MERRITT. Mr. Chairman, will the gentleman yield?

Mr. NELSON of Maine. Yes.

Mr. MERRITT. By averting a national catastrophe, does the gentleman mean that he thinks that by law 100,000 men can be compelled to work if they do not want to?

Mr. NELSON of Maine. I never have believed in such procedure. I never have suggested it, and I do not believe that any true American would countenance the attempt. I believe that compulsory arbitration even is repugnant to our concepts of government; but I believe that compulsory investigation is in entire harmony with the genius of American institutions, and that on an occasion of that sort, in the case of a great national emergency, it should be resorted to for these purposes: To focus public attention, to create an intelligent and informed public opinion, to bring to bear upon the offending party the compelling influence of public disapprobation.

Mr. PARKER. Mr. Chairman, will the gentleman yield?

Mr. NELSON of Maine. Yes.

Mr. PARKER. What does section 10 of this bill do?

Mr. NELSON of Maine. Nothing. I shall come to that in a moment.

This idea of compulsory investigation is no new one. President Roosevelt in 1905, and again in 1906, urged upon Congress the necessity of creating machinery for compulsory investigation of critical labor controversies. President Wilson, in 1916, facing a threatened paralysis of transportation, made practically the same request to Congress. The Howell-Barkley bill of last year, as amended in the Senate, provided for compulsory investigation. The Railroad Labor Board, which it is proposed to abolish, to-day possesses this power. President Coolidge, in his December message, in dealing with the coal situation, emphasized the need of machinery for compulsory investigation in labor difficulties.

In these messages of three great Presidents of the United States we see expressed the universally admitted thought, that when industrial disputes threaten the national welfare, then the people are entitled to know the full facts of the controversy, and it is the duty of Congress to provide the machinery for obtaining those facts.

Section 10 of this act provides for the appointment by the President of an emergency board. Its sole purpose is to discover and report the facts, a purpose of extreme importance, as upon those facts the President may act, or Congress legislate. This bill gives the emergency board no power whatever to compel the attendance of witnesses or the production of evidence. Its proponents refuse to allow such an amendment. In time of national emergency, tremendous responsibility is placed upon the President. He may appoint this board for the purpose of investigation, but they go forth, not clothed in any sovereign power of the United States, but go forth as suppliants taking what they can get.

Mr. BLANTON. Mr. Chairman, will the gentleman yield?

Mr. NELSON of Maine. Yes.

Mr. BLANTON. It would not be authorized to force the production of a document or the presence of a witness.

Mr. NELSON of Maine. Not one. I say that this board is appointed simply for the purpose of discovering and reporting evidence, and then its hands are tied.

I believe we could have a pretty fair bill here if we would simply add to it the provisions of existing statutes for the protection of the public rights. Transfer to the Interstate Commerce Commission the power of review and suspension of wage agreements now possessed by the Railroad Labor Board; amend section 9 so that it shall not preclude the Interstate Commerce Commission from considering the merits of any award in making rates; give to the emergency board the power of compulsory investigation; and we would have a bill here that I believe any man could vote for without misgivings or misapprehension.

Mr. BLANTON. Mr. Chairman, will the gentleman yield for a question?

Mr. NELSON of Maine. Yes.

Mr. BLANTON. Why should we not give the President's emergency board the same power that the Board of Arbitration has?

Mr. NELSON of Maine. I have not been able to ascertain.

Mr. BLANTON. Has the committee ever been able to explain why it is not able to do that?

Mr. BEEDY. If the gentleman will permit, the answer is that the two parties in this three-sided matter have gotten together and said that they do not want it.

Mr. BLANTON. They do not want the public to have any rights in it?

Mr. BEEDY. Yes; that is their agreement. This is not the legislation of this Congress or of any member of this committee. This is an agreement that they allow us to make a gesture of in the way of having it printed and having us go through the form of voting for it.

Mr. BLANTON. And have the taxpayer pay the expense?

Mr. NELSON of Maine. Where do I come in on this discussion? [Laughter.]

My friends, I just want to say this in closing. I had hoped, as a member of a great congressional committee, to have shared in some small way in the joys of intellectual conception, in the pains of mental travail, that would have brought forth for your consideration here a bill embodying, in some slight measure, the statesmanship, the Americanism, the courage, and the intellectuality of the members of that committee. Instead, we bring you an adopted child, of uncertain parentage. We bring it to you, in all essentials, exactly as it was brought to us. No profane hand has sought to remodel its features, or stiffen its backbone. We had to take it just as it was or not at all. It is a tender child, and temperamental. To my mind it is too sweet to be wholesome. [Laughter and applause.]

However, it comes to us highly, if not widely, recommended. Possibly our people may love it and feel that it justifies all and any sacrifices that may have been made in its behalf. [Applause.]

MESSAGE FROM THE SENATE

The committee informally rose; and Mr. ACKERMAN, having taken the chair as Speaker pro tempore, a message from the Senate by Mr. Craven, one of its clerks, announced that the Senate had agreed to the amendments of the House of Representatives to the amendments of the Senate Nos. 17, 58, and 59 to the bill (H. R. 8722) making appropriations to supply urgent deficiencies in certain appropriations for the fiscal year ending June 30, 1926, and prior fiscal years, to provide urgent supplemental appropriations for the fiscal years ending June 30, 1926, and June 30, 1927, and for other purposes;

That the Senate further insists upon its amendments Nos. 27 and 28 to the said bill and asks a further conference with the House of Representatives thereon:

Ordered, That Mr. WARREN, Mr. CURTIS, and Mr. OVERMAN be the conferees on the part of the Senate.

RAILWAY LABOR DISPUTES

The committee resumed its session.

Mr. BARKLEY. Mr. Chairman [applause] and gentlemen of the committee, I shall not limit myself as to time because I want to be free to discuss this bill in as much detail as possible; but I hope not to consume more time than the House is willing patiently to listen. We have before us today a measure which involves probably as vitally and as intimately the welfare of the people of the United States as any measure which Congress can possibly consider. This bill affects not only the fundamental rights of the American people; it affects the fundamental rights of the transportation systems of the United States as well as the men who operate those transporation systems.

I desire to make some comparisons between the bill now before us and the measures which have heretofore been enacted, and especially some comparisons between it and the present law. I wish also to discuss the question which has been injected here, and which seems to be in the minds of many of the Members, the rights of the public, not only from a legalistic standpoint, not only from the standpoint of the power that may be conferred upon the Congress by the commerce clause of the Constitution, but I desire to discuss that right from its fundamental standpoint independent of any power to deal with it that may be conferred upon Congress by the Constitution.

Before I undertake to discuss the details of this bill I desire briefly to outline the history of labor legislation which led up to the passage of the present transportation act and its labor provisions, beginning in 1888. For many years prior to the enactment of the first law which undertook, in a feeble and timid way, to provide for the adjustment of railroad labor disputes there had been much agitation throughout the country upon this subject and many bills had been introduced in the House and in the Senate. I think, probably, beginning back in 1873 Congress began to give its attention to the problem of providing some way by which labor disputes arising upon our railroads might be amicably adjusted so as to prevent interference with interstate commerce and at the same time provide a just method of settling disputes so as to grant to the carriers and their employees the rights to which they were entitled.

The first bill, however, which ever became a law was enacted by Congress in 1888. That law provided that both sides to any controversy, if they agreed to arbitrate the question, were to appoint one representative, and that these two representing each side should appoint a third, all of whom were to be impartial and disinterested.

The third appointee was to be the president of the board of arbitration, and any two members of that board might render a decision. They were supposed to meet and organize as soon as possible after their appointment, to hear and determine the controversy, sign their decision, and file it in the office of the Commissioner of Labor, who at that time occupied the position which was subsequently enlarged into the present Department of Labor. Each member of this board was to receive $10 a day for his services during the time actually consumed in the settlement of any dispute. The President was authorized in the same law of 1888 to appoint two commissioners, one of whom was to be a resident of the State where the dispute existed, and who, with the Commissioner of Labor, were to investigate the causes of any dispute and suggest a settlement or remedy, the result to be reported to the President and Congress, whereupon the commission ceased to exist. The President was authorized to tender the services of this commission to settle any dispute either on his own motion or on the application of either side or upon the application of the executive of the State in which the dispute existed. The President could direct the commission to visit the scene of the controversy, and it had all the powers given to a board of arbitration. It was to hear and consider the disputes, make its report, and file that with the Commissioner of Labor, as the board of arbitration, which I have already mentioned, was to do.

That law was in existence from 1888 to 1898, but during its entire 10 years on the statutes not one controversy was ever settled by the arbitration provisions of that early law, and only one dispute was ever considered by the investigating commission referred to in the latter provisions of the law, and that was the famous Pullman strike which occurred in Chicago in 1894 while Grover Cleveland was President, in which Eugene V. Debs and others were enjoined from interfering with interstate commerce or with the transportation of the mails. President Cleveland sent troops out to Chicago to preserve order and to prevent interference with the transportation of the mails.

It was recognized during the existence of this law that it was inadequate, and there began a movement for its amendment; various bills were introduced in the House and in the Senate.

In 1898 the sentiment which had crystallized for some amendments to this law took form in the House and in the Senate by the enactment of the law now known as the Erdman Act. The Erdman Act was limited in its application to employees who were engaged in actual train service and had no application to the settlement of disputes arising among any other class of railroad employees. It did not provide for any investigation, as authorized in the act of 1888, but provided for mediation and conciliation, for which the former law did not provide in terms, although the committee of investigation authorized to be appointed by the President might be said to correspond in some degree to the Board of Mediation and Conciliation provided in the Erdman Act.

Under the Erdman Act in case of any controversy over wages, hours of labor, or conditions of employment the chairman of the Interstate Commerce Commission and the Commissioner of Labor were to communicate with both sides and try to settle it by mediation and conciliation. In the event they failed to bring about a settlement by mediation and conciliation they were to endeavor to bring about arbitration through a board of three, one of whom was to be named by the road or roads involved in the controversy, another by the employees involved in the dispute, and these two were to name a third, and a majority of this commission of three or board of arbitration might render a decision.

Under the terms of the Erdman Act any agreement to arbitrate was to be submitted in writing, under certain stipulations which the law provided, which I need not detail. After the

award was made it was to be filed in the office of the clerk of the United States circuit court in the district where the dispute arose or where the arbitration was entered into, and was to go into effect within 10 days from its filing. Exceptions might be filed by either side within 10 days to the award, and it was to be tried out in the circuit court of the United States.

If the report of the award was sustained by the court it was to become binding and, under the terms of the Erdman Act, no employer could discharge an employee pending the settlement or for three months after the settlement without 30 days' notice, and the employees could not terminate their employment by any concerted action upon their part except under the same conditions. There was no penalty attached in this statute which would punish either side for a violation of that provision.

The law also provided that all members of any corporation should cease to be members in case they used force to bring about the settlement of any railroad dispute, but a corporation was not liable for the acts of its members, nor the members for the acts of the corporation. The corporations referred to evidently were not only the railroads but the labor organizations, which were incorporated in certain cases.

Contracts prohibiting any employee from joining an organization were declared to be void. This provision was afterwards declared unconstitutional by the Supreme Court.

Under the terms of the Erdman Act all the provisions of the act of 1888 were repealed.

For eight years and a half after the passage of the Erdman Act only one attempt was made to use it, and this attempt failed; but during the remainder of its existence, which was until the Newlands Act was enacted in 1913, 61 disputes arising upon the railroads of this country between the carriers and their employees were settled and adjusted under its provisions. No award ever made under this act was ever repudiated by either side, and only one appeal was ever taken to the courts of the United States as a result of awards made under the operation of the Erdman law.

One of the greatest improvements of this act over that of 1888 was a provision for a permanent Board of Mediation and Conciliation instead of a temporary board appointed for each particular emergency, but during all the existence of this law agitation became widespread throughout the country and in both Houses of Congress for its further amendment, and many bills were introduced by Members of the Senate and by Members of the House.

The result of this, in 1913, was the law which has since been known as the Newlands Act, which was in fact a mere amendment and extension of the Erdman Act, but which was afterwards known as the Newlands law and which repealed the provisions of the Erdman Act.

This law, like the Erdman law, applied only to employees engaged in actual train service. In the event there was a dispute between the roads and their employees over wages, hours of labor, or conditions of employment, either side might request, as in the Erdman Act, this permanent Board of Mediation, which was provided for in the law, to make an effort to bring about a settlement. If the Board of Mediation was unable to bring about a settlement, the law provided for an arbitration by another board of three, one to be appointed by each side and one by the two, or if they failed to make the appointment, the third member was to be appointed by the Board of Mediation and Conciliation; or they might have, if they desired and preferred, a board of six, in which event two were to be appointed by each side and the other two by the four, or if they failed to appoint within 15 days, then the other two might be appointed by the Board of Mediation and Conciliation.

There was also provided in the law that there should be, in case of failure to settle the dispute by the Board of Mediation, an agreement to arbitrate, and this agreement had to be signed by both sides and had to contain certain stipulations as to what the award was to provide for. I believe there were 12 different things that the agreement had to stipulate. The award was likewise to be filed in the United States circuit court, and exception might be filed within 10 days to its provisions, to be tried out by the circuit court, and after they were tried out by the circuit court, if the award was sustained, it likewise became binding upon both parties. If there were no exceptions filed, the award became binding after 10 days.

In the agreement to arbitrate both sides had to agree that they would abide by the result of the arbitration, which, of course, was subject to be nullified on grounds of fraud or that it did not comply with the law or the terms of arbitration.

In addition to this, the President was to appoint a commissioner of mediation and conciliation, who was made a permanent officer of the United States, and in addition to this commissioner he was to designate two other officers already in the Government service, who were to compose the board of three to be known as the Board of Mediation and Conciliation, with the commissioner of mediation as the chairman, who was to receive, I believe, a salary of $7,500 per annum. It provided also for an assistant commissioner of mediation and conciliation, and the old law of 1898 was likewise repealed.

That was in 1913, and the Newlands Act was in force from that time until the Government took over the railroads in the latter part of 1917. During that four and a half years up to June 30, 1917, many controversies were adjusted and settled. In all I believe 71 separate and distinct controversies between the railroads and the employees arising out of dispute over wages, hours of service, and conditions of labor were settled and adjusted under the Newlands Act, and in all a total of 148 cases were brought to consideration, some of which were withdrawn or otherwise disposed of.

Then, in 1916 the Adamson law was enacted, which provided for an eight-hour day, which I need not take the time to discuss and which many Members will remember, and which did not apply to any settlement of dispute by mediation and conciliation because the dispute was settled by act of Congress.

During the operation of the railroads by the Government a different method was set up for adjusting railroad disputes. In fact, when the Government took over the roads there was a dispute pending between the railroad employees and the carriers which had been pending for several weeks or months, but was settled some time after they were taken over, and the director general gave out a statement in which he said this dispute which existed at the time the Government took the roads over and inherited it would be settled, and that the men should go on with the work and depend on the Government to bring about a method of settlement which would be just and fair to both sides.

Acting under that statement, the director general appointed a commission composed of four members; that commission held hearings for many months and considered the disputes and finally brought in a report which recommended a certain increase in wages. That report, with very slight changes, was put into effect by the director general, and on account of the delay in bringing about that adjustment it was made retroactive, to take effect January 1, 1918.

After that dispute was settled, recognizing the fact that, as history had already demonstrated, other disputes were likely to arise in the operation of the roads between the carriers and the men, a board of railroad wages and working conditions was created, whose report had to be submitted to the director general before going into effect.

There are two sorts of disputes that arise on railroads. One kind is a dispute growing out of the interpretation of agreement as to wage scales or working conditions that already exist. These disputes might be termed grievances; they might affect a large number of men in some way and they might affect only a small number of men, or they might affect a single individual. Recognizing the difference between the character of these disputes, the director general instituted boards of adjustment which were not to deal with the questions involved in changes of wages, their increase or decrease or change in the working conditions or hours of service, but these boards were to deal with adjustments and were to be composed of the representatives of the men themselves and of the carriers, to be selected by the respective sides of the dispute, or if there was no dispute the boards were created and made permanent during the Government operation and they were to settle all grievances of every kind and character growing out of disputes that arose over the interpretation of existing agreements as to scales of wages and conditions of service.

The board on wages and working conditions was a board which after the first settlement was to settle all disputes arising with reference to increase or decrease in wages or changes in working conditions. The boards of adjustment were numbered adjustment board No. 1, dealing with one class of employees, and board No. 2, dealing with a different class of employees, and board No. 3, dealing with still other classes.

Not only the first director general but Walker D. Hines, who was subsequently appointed, the railroads themselves, the Department of Labor, and every organization and every agency that had any opportunity to observe the operation of this system of settlement have testified to its efficiency, to its fairness, and the wise methods which were adopted in the settlement of disputes.

When the railroads were turned back to the owners under the Esch-Cummins Act, which passed in February, 1920, a new method was set up for settling disputes arising between the railroads and employees. It seemed to be recognized by Congress, and by a large number of people, that the railroads ought

not to be turned back to the private owners without providing some method of adjusting disputes that might arise. During the latter days of the operation of the Newlands Act there had grown up a widespread belief among many people, and particularly among the employees of the railroads, that the Newlands Act itself in many respects ought to be amended and changed. In November, 1919, Mr. Esch, of Wisconsin, chairman of the Committee on Interstate and Foreign Commerce, introduced the original Esch bill restoring the railroads to private operation, and in that bill he provided a method by which disputes might be settled between the roads and their employees, and that method was that conferences were enjoined by the act itself upon the employees and the carriers in an effort to bring about an adjustment of their difficulties without interference from the outside.

That bill passed in November, 1919. During its consideration the Anderson amendment introduced by the gentleman from Minnesota, Mr. Anderson, was substituted for the Esch provisions as introduced by the committee in the House in November. Even that amendment provided for conferences and the appointment of adjustment boards and for provision for mediation and conciliation somewhat similar to the provisions of the Erdman and Newlands Acts.

That bill went to the Senate with the Anderson amendment included within it, as passed by the House. In the meantime, Senator CUMMINS, of Iowa, had introduced a bill which was radically different from either the Anderson amendment or the original text provision, and which provided for compulsory arbitration, providing a drastic and stringent law that made it unlawful for any two or more men to agree to quit their work prior to the submission of a dispute to arbitration, pending the arbitration and after it had been arbitrated. So that under the terms of that bill any two men, father and son, brother and brother, at the breakfast table in the morning, who were participants in a dispute with the railroad company, if they agreed, talking things over at their breakfast, that they would quit, would violate the law, and they might be punished by heavy fine and imprisonment. When the House bill went to the Senate, after its consideration here, the Cummins amendment was inserted and was passed by the Senate practically as introduced by Senator CUMMINS. When that bill came back here from the Senate it provided for compulsory arbitration and for drastic antistrike provisions which punished by fines and imprisonment any two or more railroad employees on any road engaged in interstate commerce and subject to the act to regulate commerce, who got together and agreed to quit. The bill was sent to conference. The conferees were engaged every day for six weeks in undertaking to adjust the differences between the House and the Senate, and after many laborious days of consultation and conference, debate and dispute, the conferees brought back into the House and into the Senate the Esch-Cummins law as it now exists. Two of the members of the conference, of whom I was one, refused to sign that report, and refused to vote for it upon its passage. Title III of the Esch-Cummins law provides that there shall be a conference between the railroads and their employees in an effort to bring about an adjustment of all disputes, not only involving grievances or the interpretation of existing contracts, but in order that all disputes arising out of controversies over increases or decreases of wages, or any change in the working conditions might be settled by a conference among the railroads and their employees.

The history of railroading in this country has demonstrated that the most satisfactory method of adjustment of all railroad disputes involving labor and working conditions has been when the men on both sides were permitted to sit down at a table and settle their own disputes without interference from the outside. [Applause.] But in the event that they could not settle their disputes by a conference, the present Esch-Cummins law provides that there shall be set up voluntary adjustment boards, to be composed of men on both sides. There is no compulsion, however, in the law relative to the setting up of these adjustment boards. They were supposed to take the place of the adjustment boards provided in the operation of the roads by the Federal Government, so that where conferences had not been able on the ground to settle these disputes they might be referred to these various boards of adjustment set up either in regions or in any locality by common consent of the roads and their employees. After the adoption of this law the railroad employees, from one end of this Nation to the other, offered to enter into agreements setting up these adjustment boards. They made these propositions not only nation-wide, but they made them to their individual employers upon the individual roads of the United States. Some of the railroads agreed to these adjustment boards, but many of them did not agree, and until this time many of the railroads have refused to enter into agreements with their employees establishing these adjustment boards either in the regions or upon individual roads, so that this particular part of the present law has been ineffective, for the sole reason that many railroad companies have refused to carry out the spirit even of the Esch-Cummins law in the formation of these adjustment boards.

The present law provides for the present Railroad Labor Board, composed of nine members, three of whom are to be appointed by the President from a list submitted by the railroad employees, three of whom are to be appointed by the President from lists submitted by railroads, and the other three to be appointed by the President from the public.

These nine men now form the Railroad Labor Board. So far as the labor provision in the Esch-Cummins law is concerned, I do not know yet where that particular title came from. It was brought into the conference committee somewhere from the outside. No employee was ever consulted with reference to its provisions. They were not permitted to come before the conference committee to express their desire with reference to labor legislation, but they have entered into the operation of this objectionable provision in a spirit of patriotism. They submitted their names to the President. It was contemplated that no dispute arising from disagreement as to the interpretation of existing wage scales and agreements should have to go to this Railroad Labor Board, except in cases where these adjustment boards referred to have been unable to reach an agreement. The Railroad Labor Board as now formed was intended to deal with larger questions—questions of wage increases or decreases, or the questions of changes in the fundamental conditions of labor that might apply upon the transportation systems of the country; but because many of the railroads and the employees have been unable to agree on the formation of these adjustment boards, the Labor Board, composed of nine men, sitting in Chicago, have been compelled not only to adjust differences involving the larger questions of railroad employment, but they have been compelled to consume their time in petty disputes arising on individual roads from the interpretation of a grievance, and even to take up their time adjusting individual disputes between individual men and the employers. As a result the Railroad Labor Board has been unable in many cases and unwilling in others so to function as to give satisfaction to either side in disputes arising.

The first three laws passed by Congress—that of 1888, the Erdman Act of 1898, and the Newlands Act of 1913—applied only to men actually engaged in the operation of trains. Recognizing that the people's primary interest in the problem concerned the service of continuous and uninterrupted transportation, Congress made no effort to include any except men in actual train service until the transportation act of 1920, and, although the latter applies to all employees of railroads, it made no effort to restrict or interfere with the fundamental right of private agreement as to wages or working conditions. And for that reason the laws which Congress enacted were limited to disputes and disagreements which might arise between the railroad companies and those who were engaged in the actual transportation of commodities in interstate commerce. During the life of the Newlands Act 148 disagreements between railroads and their employees were settled, and there was not a serious interruption of traffic nor a serious threat of interruption of traffic except in 1916, which resulted in the passage of the Adamson law.

I wish to call attention to the reason which made it impossible for that dispute to be adjusted under the terms of the Newlands Act. The heart of that contest, the thing around which the men and the roads disagreed, was the question of the 8-hour day. On about 15 per cent of the railroads of the United States the 8-hour day was in force, but upon about 85 per cent of the roads the 10-hour day as a standard of labor for the men engaged in the transportation of commerce was in effect. A dispute arose about the 8-hour day and about the allowance of overtime for work that was protracted beyond the 8-hour period, which was regarded as a fundamental right, as the 8-hour day had been established by the United States in the laws that applied to the public service and as the 8-hour day had been established in practically every other industry in the United States in response to the enlightened and progressive opinion of the people of our country.

It was generally agreed that in a hard and hazardous industry eight hours was as long as any man ought to be required to work as the standard of a day's labor. So the question arose over the arbitration of the 8-hour day. The employees contended that the 8-hour day ought not to be a subject of arbitration; that the 8-hour day had been accepted by civilized society as the standard of a man's work, and that

they ought not to be required to go into arbitration over the question whether they should extend the hours of service beyond the period of time which society and our Government had recognized as wise and proper in the conservation of human energy. And so an impasse was reached between the railroads and their employees, and a serious strike which, if it had occurred, would not only have meant serious damage to labor and industry itself, but which might have resulted in the breaking down of our transportation system and might have resulted in hunger and want and starvation to the people of the United States, hung like a great cloud over the entire Nation. It was at that juncture that President Wilson called the two sides to Washington and asked them to confer with him over an amicable adjustment of this dispute. They came here, not of their own volition, but in response to his invitation. They conferred with him. Propositions were made back and forth, using him as an intermediary between the employees and the roads, and finally the employees said once and for all that they could not agree to arbitrate the 8-hour day, and President Wilson issued a public statement agreeing that they were right about that, and taking the position himself that the 8-hour day was a fundamental human right, and it was not subject to arbitration. [Applause.]

As a result of that situation he asked Congress to pass a law which recognized the 8-hour day as a standard for man's work in the United States on the transportation systems, and hence the Adamson law was enacted by Congress, and the strike, called by reason of the disagreement, was called off, and the Adamson law went into effect and has been in force from that time until now, and has been interpreted by the Supreme Court of the United States and held constitutional.

I shall not undertake to call attention in detail to the decision holding the Adamson law constitutional, but in view of the contention made by the opposition, which seems to have focused around one certain idea in connection with this legislation, I do desire to call attention to the question which was at the bar in that decision, and, if I have time, to read the language of the court in passing upon the thing which certain Members seem to hold as important in regard to this bill. You will recall that there was a disagreement on the part of the men and the roads; there was a failure of their minds to meet, and what is known as the Adamson law was intended to fill the gap between the two sides and make an agreement which they themselves were unable to arrive at; and in passing on the question of the constitutionality of the Adamson law the Supreme Court held that where there was a failure to agree, admitting that the parties had a primary and fundamental right to contract privately for fixed wages upon the railroads of the United States, where there was no agreement, where there was a gap between the minds on the two sides, Congress had the right to deal with the condition by passing a law that would bridge this gap and create an agreement by operation of the law in order that the people may have uninterrupted transportation.

But in that decision Chief Justice White over and over again reiterated and emphasized the principle that the right of private agreement was one over which Congress had no power of control or restriction. In that decision, which is cited as Wilson *v.* New (243 U. S. p. 333), the court said:

> It is also equally true that as the right to fix by agreement between the carrier and its employees a standard of wages to control their relations is primarily private, the establishment and giving effect to such an agreed-on standard is not subject to be controlled or to be prevented by public authority.

Then the court continues:

> Conceding * * * the power between the parties employers and employees to agree as to a standard of wages free from legislative interference, that right in no way affects the lawmaking power to protect the public right and create a standard of wages resulting from a dispute as to wages and a failure thereby to establish by consent a standard.

This principle is reiterated time and again all through the decision.

I need not take the time of this committee to read that decision. It is a very lengthy decision, but if you have the time, especially those who are now contending for an amendment to this bill that shall give the public a right not only to representation when there is a dispute but which goes even further and says that the public has the right to sit in on any private agreement between the railroads and their men, because the public in the long run pays the bill, especially the Members who have that slant on this situation, it might be illuminative and instructive and valuable if you would study the lengthy decision of Chief Justice White in interpreting the Adamson Act in 1916.

So, my friends, every law that has been enacted in the United States, as well as the decisions which have been rendered in their interpretation, has started out upon the fundamental theory that a man who goes out in the night or in the day working upon the railroad or a man who works in a railroad shop or in any other capacity in interstate commerce has a fundamental, elemental, American right to have a voice in the price of his wage, and that he has the right to reach an agreement with his employer in respect of the amount of that wage and the working conditions under which it may be earned, and the law that is in existence now does not seek to take away that right.

In the very midst of the operation of the Newlands Act the war came on, and as a war measure the Government took over the railroads of the United States; but, of course, the taking over of the railroads did not operate to repeal the Newlands Act; and as a matter of fact, the passage of the transportation act itself did not in terms repeal the Newlands Act. So that some features of that law which have not been specifically repealed by the Constitution of the United States may even yet be in existence.

During the war, of course, the Government had the railroads, and we need not enter into any discussion about the merits of Government operation of railroads, but the experience of the Government during the operation of the railroads has been very valuable not only to the railroads but to the men themselves and to the Congress and all public authorities in undertaking to arrive at the psychology of labor situations and the psychology of labor rights and the rights of the public.

When the railroads were taken over by the Government in 1918—I believe, on January 1, 1918—there was a dispute then pending between the roads and their employees with reference to wages, and the United States Government inherited that dispute. The director general and the commissions which were operating with him—and, of course, he was advised not only by public authorities but by executives of railroads and by executives of railway labor organizations—created certain boards, some of them local, some of them regional, some of them national, for the purpose of adjusting these disputes that then existed between the railroads and their employees. For instance, a wage commission was appointed, which was nonpartisan, to settle the controversy then pending. I think Secretary Lane was on it; William Willcox, chairman of the Republican National Committee, was a member of it. I do not recall any of the other members. They heard the dispute, they heard all the testimony, and finally made a recommendation to the director general recommending certain increases in wages, and that recommendation was put into effect.

I want to say here, because I think probably it ought to be said, the man who was then director general of the railroads has received in one place and another very severe criticism for having increased the wages of the railroad employees after the railroads were taken over by the Government, but those increases were not made by him on his own initiative but were made in pursuance of a recommendation of a nonpartisan commission made up of Democrats and Republicans, who recommended these increases to the director general and they were put into effect as a result of that recommendation.

The war ended and we, of course, were confronted with a situation where we had to determine what was to be done with the railroads; whether there should be a continuation of Government operation for a year or two years or five years or whether there should be an immediate return of the roads to their owners. Congress decided the roads ought to be returned immediately. So they passed in 1920 what is now known as the transportation act, Title III of which deals with labor disputes.

I wish to give a little of the history of that legislation so that we may get a sufficient background and perspective and have an understanding about why it has been so ineffective in its settlement of disputes and in its enjoyment of confidence or lack of confidence among both sides to railroad disputes in the United States.

I must correct my good friend, the gentleman from Maine [Mr. NELSON], who suggested that Mr. Winslow, a great constitutional lawyer, was chairman of the Committee on Interstate and Foreign Commerce when the transportation act was passed. Mr. Winslow, of Massachusetts, as we all know, was a very delightful companion and very earnest in the advocacy of all his views, but I doubt if his warmest friend would contend he is a great constitutional lawyer. He is a business man and not a lawyer. But whether he is or not, he was not at that time chairman of the Committee on Interstate and

Foreign Commerce. Mr. Esch, of Wisconsin, now a member of the Interstate Commerce Commission, was chairman of the committee at that time, and I think our old friend from Tennessee, Judge Sims, was the ranking Democratic member on the committee.

As the bill passed the House it did little more than return the roads to the owners with certain technical amendments to the act to regulate commerce, except that it did try to set up some kind of machinery by which labor disputes might be adjusted. On the floor of the House, this provision which had been worked out laboriously and carefully in the committee, as the committee thought, was kicked out overwhelmingly and unceremoniously, and what was known as the Anderson amendment was substituted on the floor of the House and went to the Senate as a part of the Esch bill. This was in the fall of 1919.

In the Senate, the bill was considered by the Committee on Interstate Commerce, and all the language of the House bill was stricken out and the Senate rewrote the measure. Among other things it sought to deal with labor disputes. It set up a national board or transportation board. It undertook to set up adjustment boards; and in addition to the machinery by which they expected to settle disputes, they put in a rigid, automatic, and autocratic antistrike provision which provided if there was a dispute on the railroads, the men could not quit their employment before the dispute was submitted to arbitration, they could not quit while it was under submission, and they could not quit after it was decided. So an effective administration of it would have meant compulsory, lifetime employment on the part of the employees of the railroads, because they could not quit before, they could not quit durin,, and they could not quit after a dispute had arisen and had been settled.

Mr. NEWTON of Minnesota. Will the gentleman yield for a question there?

Mr. BARKLEY. Yes.

Mr. NEWTON of Minnesota. There was, of course, a provision permitting individual employees to quit at any time.

Mr. BARKLEY. Yes; but it provided that no two men could agree to quit, and this meant that a father and son could not sit down at the breakfast table in the morning and agree they would not go back to work without subjecting themselves to a fine or imprisonment.

Mr. ALMON. Did the Senate amendment pass the Senate in that form?

Mr. BARKLEY. Practically in that form. So when the bill went to conference the conferees had to adjust the differences between the House and the Senate. The Senate bill had a compulsory antistrike provision which made it a crime for two or more men to agree not to work, and that was the bone of contention so far as the labor provision was concerned. I think I am the only Member of the House who was then on the conference committee. The House conferees were Mr. Esch, Mr. Winslow, Mr. Hamilton of Michigan, Republicans, and Judge Sims and I were the Democratic conferees. We were in session in that conference for more than six weeks. On the Senate side, Senator CUMMINS, the author of the Cummins amendment, was chairman of the conferees, and the other conferees were the present minister to Peru, Senator Poindexter, the present Secretary of State, Mr. Kellogg, Senator Pomerene, of Ohio, and, I think, Senator ROBINSON, now the Democratic leader of the Senate.

In the labor title of that bill the present law was set up, and one of the first provisions of the title was that both sides should undertake to arrive at an agreement over wages. That law as it exists to-day does not take away from the parties the right to contract. That right was recognized; the only thing in that law that even squinted at the contrary is the provision to which I desire to refer a little later, but even that does not interfere with the right of the employees and the employers to make an agreement; even that does not give the Railroad Labor Board the power to suspend an agreement that has been reached by the men and the roads. All that does is to give the Labor Board the power to suspend its own decision if they believe that its own decision would result in a substantial increase of railroad rates in the United States. Of course, if they have the constitutional power to render a decision, they have the same power to suspend a decision, and perhaps set it aside. We are not dealing with that question now.

Mr. GARRETT of Tennessee. Will the gentleman yield?

Mr. BARKLEY. I will.

Mr. GARRETT of Tennessee. I did not understand the gentleman's last statement—do I understand the gentleman to say that the only power given to the Labor Board is to suspend one of its own decisions?

Mr. BARKLEY. The only power of suspension.

Mr. GARRETT of Tennessee. The gentleman does not think the language of the act empowers the Labor Board to suspend an agreement reached voluntarily between the parties?

Mr. BARKLEY. I do not think it does, and if it did, I do not think any such power would be constitutional. The language of the statute, giving the Labor Board the power of suspension, is as follows:

> The Labor Board, (1) upon the application of the chief executive of any carrier or organization of employees or subordinate officials whose members are directly interested in the dispute; (2) upon a written petition signed by not less than 100 unorganized employees or subordinate officials directly interested in the dispute; or (3) upon the Labor Board's own motion if it is of the opinion that the dispute is likely substantially to interrupt commerce, shall receive for hearing, and as soon as practicable and with due diligence decide, all disputes with respect to the wages or salaries or employees or subordinate officials of carriers, not decided as provided in section 301. The Labor Board may upon its own motion within 10 days after the decision, in accordance with the provisions of section 301, of any dispute with respect to wages or salaries of employees or subordinate officials of carriers, suspend the operation of such decision if the Labor Board is of the opinion that the decision involves such an increase in wages or salaries as will be likely to necessitate a substantial readjustment of the rates of any carrier. The Labor Board shall hear any decision so suspended and as soon as practicable and with due diligence decide to affirm or modify such suspended decision.

Title III of the present transportation act was not, as my friend from Maine [Mr. NELSON] says, deliberated on here in the House of Representatives. It never came from any committee of this House. It was not put in the bill by any action of this House. All those who are now on the floor, who were Members then, will remember that the conference report came in here on the 21st of February—I believe that was the date—a little more than a week before the automatic adjournment of Congress on the 4th of March, and that there were many Members of this House who were fearful that if they voted against the conference report it would result in no legislation whatever, and that the Government would still maintain the operation of the roads for an indefinite period; and there were many who did not approve of it, who were afraid that if they voted against it that the vote might be interpreted as being in favor of Government ownership of railroads in the United States. So by reason of lack of time the conference report was rushed through the House, without any deliberation worthy of the importance of that great question, which had not been passed upon by the House or any committee that had jurisdiction of the legislation.

Mr. BLANTON. Will the gentleman yield on that point?

Mr. MARKLEY. Yes.

Mr. BLANTON. Is not it a fact that there was another alternative to the conferees' report, and that was what was known as the Plumb plan?

Mr. BARKLEY. I do not think the Plumb plan bothered anybody but the gentleman from Texas. [Laughter.]

Mr. BLANTON. Well, it did bother me considerably. May I call the gentleman's attention to this, that when Senator CUMMINS's amendment was put on the bill, and a motion was made on the floor of the Senate to strike that out, the motion only had 24 votes against 39, and after it was kept in when the Senate passed the entire bill it was passed by a vote of 46 for the bill and 30 against it?

Mr. BARKLEY. I have not looked into the RECORD as to the votes in the Senate.

Mr. BLANTON. That is the record. I looked it up.

Mr. BARKLEY. I assume that is true. That is not a matter of any importance, however.

Mr. BEEDY. Mr. Chairman, will the gentleman yield for a question for information?

Mr. BARKLEY. Yes. Even the Members of the other body may sometimes act unwisely in voting for or against any particular proposition.

Mr. BLANTON. But they are less afraid sometimes than some of us poor fellows who have to go back to our people every two years.

Mr. BARKLEY. I doubt it.

Mr. BEEDY. Mr. Chairman, referring to the question recently put by the minority leader, the gentleman from Tennessee [Mr. GARRETT], and the reply of the gentleman from Kentucky that he does not think the present law gives the Labor Board any power to suspend decisions voluntarily arrived at by the employees and the railroad executives, if the gentleman from Kentucky has a copy of the transportation act of 1920 before him, may I ask him to turn to that section and tell me what this provision in that law means, which immediately follows the statement of the power of the board to suspend decisions:

The Labor Board shall hear any decision so suspended, and as soon as practicable and with due diligence decide to affirm or modify such suspended decision.

Mr. BARKLEY. Of course, if after it has rendered a decision, facts are brought to it that would bring the matter within this provision, or if they think a wage increase, if there has been a wage increase, would materially increase rates upon railroads, and are convinced of that, then, of course, they would have the power to suspend their own decision.

That would not mean that the suspension should operate indefinitely. Both sides would have the right to be heard; first, on the question of whether the increased wages materially increased rates, and second, whether it would be a justifiable increase and whether the wage itself is justified. Let me read again the whole section. Subsection (b) of section 307 of the transportation act reads as follows:

(b) The Labor Board, (1) upon the application of the chief executive of any carrier or organization of employees or subordinate officials whose members are directly interested in the dispute, (2) upon a written petition signed by not less than 100 unorganized employees or subordinate officials directly interested in the dispute, or (3) upon the Labor Board's own motion if it is of the opinion that the dispute is likely substantially to interrupt commerce, shall receive for hearing, and as soon as practicable and with due diligence decide, all disputes with respect to the wages or salaries of employees or subordinate officials of carriers not decided as provided in section 301. The Labor Board may upon its own motion within 10 days after the decision, in accordance with the provisions of section 301, of any dispute with respect to wages or salaries of employees or subordinate officials of carriers, suspend the operation of such decision if the Labor Board is of the opinion that the decision involves such an increase in wages or salaries as will be likely to necessitate a substantial readjustment of the rates of any carrier.

It will be seen that the emphasis there is laid upon the fact that the dispute is liable to interrupt interstate commerce. That gives them the jurisdiction to take charge even on their own motion, without application from either side.

What decision is it they may suspend? Its own decision arrived at in one of the manners provided for in the previous language.

The Labor Board shall hear any decision so suspended and as soon as practicable and with due diligence decide to affirm or modify such suspended decision.

After it has made a decision upon a dispute between the carrier and its employees as to wages, and that decision is presumed to be upon the merits of the controversy, if they believe it involves such an increase in wages as would require a substantial increase in rates, they have the power to suspend their own decision; and after they have suspended it, of course, the provision is made that they hear both sides again as to whether the suspension shall be limited for a period of time or shall be made permanent, or allowed to stand indefinitely. Certainly it would have been an unfair thing to give them the right to suspend their own decision but to give them no right to reconsider their own decision of suspension.

Mr. BEEDY. Before we leave this question, might it not be helpful to the House, inasmuch as specific reference is made to section 301, to say that that section refers to such decisions as may be rendered through failure of a conference between the representatives of the parties in dispute.

Mr. BARKLEY. That section 301 is a general provision under the title which gives authority for adjustment.

Mr. BEEDY. It refers to these decisions, does it not?

Mr. BARKLEY. If the gentleman is prepared to contend——

Mr. BEEDY. Oh, I am trying to bring out the facts for general information.

Mr. BARKLEY. Let us admit for the sake of argument that this section could be read back into the whole of section 301, and undertook to give the Railroad Labor Board power to suspend a private agreement between the railroads and their men. That attempt to confer that authority upon the Labor Board would be an interference with the right of private contract which the Supreme Court of the United States, in the case of Wilson v. New, which was a decision growing out of the Adamson law, said could not be done. Because in that decision they held, not only that Congress could not control the matter of a private agreement as to wages, but could not even restrict the right of the employer and the employee to enter into an agreement over wages and conditions of employment. But the transportation act confers no power on the Labor Board to suspend private agreements as to wages.

Mr. LOZIER. Mr. Chairman, will the gentleman yield?

Mr. BARKLEY. Yes.

Mr. LOZIER. In the last analysis, does not this section refer to cases where there is an existing acute dispute, and not the cases where there has been an adjustment between the employees and the railroads?

Mr. BARKLEY. Yes. Of course, the whole machinery set up not only by the present law, but all the machinery set up by every law that has been passed heretofore has been predicated upon the fact that they could not agree upon wages, and that in the absence of an agreement there ought to be some public functionary which could step into the gap and make an agreement or adjustment that would not interrupt interstate commerce.

Mr. WINGO. Mr. Chairman, will the gentleman yield?

Mr. BARKLEY. Yes.

Mr. WINGO. I think possibly the gentleman may have overlooked one point in section 301. Section 301 is so short, that, if the gentleman will permit, I shall read it before I ask the question I have in mind. Section 301 reads as follows:

SEC. 301. It shall be the duty of all carriers and their officers, employees, and agents to exert every reasonable effort and adopt every available means to avoid any interruption to the operation of any carrier growing out of any dispute between the carrier and the employees or subordinate officials thereof. All such disputes shall be considered and, if possible, decided in conference between representatives designated and authorized so to confer by the carriers, or the employees or subordinate officials thereof, directly interested in the dispute. If any dispute is not decided in such conference, it shall be referred by the parties thereto to the board which under the provisions of this title is authorized to hear and decide such dispute.

The question is this: In the section which the gentleman read, which is subsection B, paragraph (3) of section 307, is this language:

Upon the Labor Board's own motion if it is of the opinion that the dispute is likely substantially to interrupt commerce shall receive for hearing, and as soon as practical and with due diligence decide, all disputes with respect to the wages and salaries of employees or subordinate officials or of carriers, not decided as provided in section 301.

In other words, if there may not be any agreement as to wages between employees and the railroads that the Labor Board would be then authorized to suspend because they only come in with power when called into operation where the parties have failed to agree and where the board has made a decision and in itself wanted to suspend its own decision.

Mr. BARKLEY. The gentleman is correct, but in emphasis of that I will say that reference in subsection (b) of section 307 to the previous section 301 is only made necessary because section 301 in its last sentence uses this language. It provides for the settlement of disputes by this Labor Board where there is a disagreement which has not been settled by conference. If it were not for that last sentence, there would be no necessity for subsection (b) of section 307 even to refer to section 301 in providing for suspensions of the decisions of the Railway Labor Board.

Mr. BEEDY. I think that is absolutely correct. I was a little hazy on that.

Mr. BARKLEY. I am very much obliged to the gentleman for his interruption, because his interruptions are always helpful.

Mr. BEEDY. I thank the gentleman.

Mr. STEVENSON. If the gentleman will permit, that is the principle that has been established by this decision of the Supreme Court and various others that the Congress and its instrumentalities can prescribe the hours of labor, what constitutes a day's labor, the limitations of employment of laborers so as to conserve the safety of the public, but it can not undertake to say through any of its instrumentalities as to how much a laborer shall have for eight hours' labor. That is left entirely as a matter of contract, and neither can we do it here under the decision of the Supreme Court.

Mr. BARKLEY. The gentleman is correct. But Congress has power under the commerce clause of the Constitution to make such regulations as necessary to conserve the health, safety, and welfare of the employees, and the manner in which interstate commerce may proceed, and under the commerce clause of the Constitution if there had never been a decision of the Supreme Court controlling the subject, we would know intuitively that we can not interfere with the private right of a man who labors in private industry to control the price of his own labor, and the fact that he works on a railroad, which is a public utility, does not deprive him of that right, and I dare say those who are contending here that this right ought to be abridged by Congress would not be willing to have such a restriction applied to their own private affairs.

Mr. BLANTON. Will the gentleman yield?

Mr. BARKLEY. I will.

Mr. BLANTON. Before the gentleman leaves the subject of the right of the board to suspend——

Mr. BARKLEY. Just for a moment.

Mr. BLANTON. Is it not also the fact that in making a private agreement in respect to wage schedules both the railroads and employees always recognize the fact that if they should make an unreasonable agreement the public still is safeguarded because it knows that the Interstate Commerce Commission would then refuse to pass that on to any increased freight rates, and is not that a deterrent upon the railroads to enter into anything that would be unreasonable and unfair?

Mr. BARKLEY. I think the gentleman is correct. Now, in reference to all laws upon the subject of the regulation of the relationship of employer and employees, after they have exercised what is their fundamental and constitutional right the people have the Interstate Commerce Commission which is entitled, and it is made its duty even in the present law, to make inquiry into the economical management of every railroad to determine whether an increase of rates should be allowed, and of course that would be an element to be taken into consideration.

Mr. NEWTON of Minnesota. Will the gentleman yield?

Mr. BARKLEY. I will.

Mr. NEWTON of Minnesota. And under the proposed law it applies not only to an agreement between the parties but as to awards made by way of arbitration or in any other way?

Mr. BARKLEY. Oh, yes. The Interstate Commerce Commission has absolutely free power to determine the elements which go into the economical management of railroads with the view of determining whether it shall have any weight in the application for increased rates.

Mr. BURTNESS. Will the gentleman yield?

Mr. BARKLEY. I will.

Mr. BURTNESS. Before leaving the question of the power of the present Labor Board to suspend wage agreements, I want to get that clear. Do I understand the gentleman to claim that the present Labor Board has no power to suspend an agreement; that that would be lodged not in the Labor Board itself but in the labor adjustment board, provided for under the present transportation act?

Mr. BARKLEY. The present transportation act does not provide for adjustment boards in settling wages, and the adjustment boards provided for in this bill are not to deal with the wage question, but technical disputes that only a technician could understand and which would require somebody to examine and know in reference to it, so the Labor Board would have no power to suspend agreements originating under any adjustment board, because such agreements do not deal with wages but with grievances.

Mr. BURTNESS. The language that the gentleman from Arkansas [Mr. WINGO] did not read out of subdivision (b) of section 306—just one sentence—is as follows:

> The Labor Board may on its own motion, within 10 days after a decision, examine into the provisions of section 301 in relation to any dispute, suspend the operation of such decision if the Labor Board is of the opinion that the decision involves such an increase of wages or salaries as will likely necessitate a substantial readjustment of the rates of a common carrier.

And, then, the last sentence in section 301 reads as follows, after stating that it is the duty of the carrier and employees, and so on, to come together—

> If any dispute is not decided in such conference it shall be referred by the parties thereto to the board which under the provisions of this title is authorized to hear and decide such dispute.

Now, is it the contention of the gentleman that the only decisions with reference to wages that can be suspended by the Railroad Labor Board are the decisions which the Labor Board itself makes?

Mr. BARKLEY. That is my contention, because in this language here it refers to decisions all the way through, and to its own decision; and an agreement where there was no dispute would not be a decision. It would be a contract.

Mr. NEWTON of Minnesota. Mr. Chairman, will the gentleman yield?

Mr. BARKLEY. Yes.

Mr. NEWTON of Minnesota. The gentleman referred to the jurisdiction of the adjustment board under Title III of the transportation act, and I think unduly restricted their jurisdiction in his remarks. My recollection is that the Railroad Labor Board is given appellate jurisdiction under Title III over the decisions of the adjustment board regarding grievances?

Mr. BARKLEY. Yes. Either side has the right, even where adjustment boards are created, to appeal from the decisions of that board; but that appeal would not involve the question of wages, and therefore suspension of it would not be applicable.

Mr. WINGO. In the same section 307, subdivision (d), it says:

> All the decisions of the Labor Board in respect to wages or salaries and of the Labor Board or an adjustment board in respect to working conditions of employees or subordinate officials of carriers shall establish rates of wages and salaries and standards of working conditions which in the opinion of the board are just and reasonable—

And so forth. Am I correct in my interpretation of that, that the decisions of the Labor Board are the only ones that cover wages that might be adjudicated and considered, and that the adjustment boards are restricted to working conditions of employees?

Mr. BARKLEY. The adjustment boards were not even given the power to consider changes in working conditions. You see there are two kinds of disputes recognized on railroads. One is the interpretation of agreements already in existence, applying to discipline and small grievances that may not only come up with reference to groups of men but may arise with reference to a single man. These are all technical. They have nothing to do with the wages received, but they have to do with the technical interpretation of agreements that exist and the exercise of discipline between the management and employees.

Mr. WINGO. I am not clear on this. We will cut out what it says about the Labor Board with respect to wages and salaries. "All the decisions of the Labor Board and adjustment board are with respect to working conditions of employees." What does that mean? I understood the gentleman from Kentucky to say that could not cover the question of working conditions.

Mr. BARKLEY. You can imagine that any dispute over the interpretation of an agreement would involve some working condition. It might involve how long a man would work in a certain place or what work he should do. But a change in general working conditions and wages is a matter over which the adjustment board has no jurisdiction. The same idea is carried in this bill also.

Mr. GARRETT of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. BARKLEY. Certainly.

Mr. GARRETT of Tennessee. The gentleman stated a moment ago that it is the duty of the Interstate Commerce Commission, in considering the question of rates, to take various matters into due consideration, among other things economical administration and operation. Arguing from that, it could take wages into consideration, could it not? Am I correct in that?

Mr. BARKLEY. They have the power to do that, and it is their duty, and they do it all the time.

Mr. GARRETT of Tennessee. Well, if they take that into consideration, what can they do about it so far as rates are concerned?

Mr. BARKLEY. For instance, if they should conclude that there had been an unreasonable increase of railroad wages by the railroads to their employees and the roads should ask that their rates be increased by reason of the increase of wages, the Interstate Commerce Commission would have the power to say, "You have increased the wages unreasonably, and therefore you must bear the burden yourself, and not pass it on to the public." They could do that; that is, in determining upon the question of economical management, and they have in the past done that very thing.

Mr. GARRETT of Tennessee. Does not the gentleman think that might bring us in conflict with the confiscation provision of the Constitution? It is admitted by all of us that the right exists to enter into a private agreement.

Mr. BARKLEY. I do not think the question of confiscation needs deter us. Of course, the railroads have the right to reasonable rates, and the Interstate Commerce Commission the power to go into that and determine what a reasonable rate should be.

Now, Mr. Chairman, I shall have to take more time than I intended if I yield further at this point.

Mr. HOCH. Just one word on the question of confiscation. In the case mentioned by the gentleman from Tennessee [Mr. GARRETT], if it were an unreasonable wage adjustment, it would not be a question of Government confiscation, but a question of the carrier itself confiscating, and therefore I think they would have the power to refuse.

Mr. BLANTON. Will the gentleman yield for one other question?

Mr. BARKLEY. Well, this is the last one.

Mr. BLANTON. The gentleman spoke of the efficacy of the Erdman Act and mentioned that for 15 years, or during its life, there were 61 adjustments.

Mr. BARKLEY. I do not want to go back to that again. I have passed by that long ago.

Mr. BLANTON. What I want to ask the gentleman is this: Could we write a better bill on behalf of the public than the Erdman Act?

Mr. BARKLEY. Yes; and I think we have done it in this bill.

Mr. BLANTON. I think the Erdman Act is the best act the public has ever had in respect to railroad legislation, and if we could get back to it, I think the country would be better off.

Mr. BARKLEY. I think the gentleman from Texas is gradually yielding and will come over entirely to our side before we get through with the consideration of this bill.

We were talking when I was diverted about the Railroad Labor Board as set up by the present law. This board has been in existence now for the last six years, and this brings me to a discussion of the necessity and advisability of some legislation to take its place.

I have been asked by a number of the Members of the House, as well as by others, what is the ground for the dissatisfaction with the Railroad Labor Board which now exists. I do not think any man can truthfully deny that not only among the railway employees, but among the railway managers and the public generally, to say the least of it, the Railroad Labor Board has been a distinct disappointment. In the first place, an effort was made here to set up a piece of machinery that partook of two different principles.

Congress tried to convince a certain element of our people that they were putting compulsion in the law, and it tried to convince another element of our people that they were not putting in compulsion but were just putting in persuasion.

We passed this law in a hurry, and nobody who represented or understood the problem of railway labor had anything to do with the writing of Title III of the transportation act. I have already shown it was not considered by a committee of this House. It was not considered by the House itself. It was not recommended by anybody from any source who could remotely claim that he spoke for the employees or the employers on the transportation systems of our country. I am frank to say I do not know where Title III came from. It was injected into the conference between the House and the Senate during the six weeks in which they sat, but I have never yet learned what fertile mind produced the thought which resulted in the enactment of Title III.

Therefore it can not be said to represent what the railroad laborers wanted, and so far as we know it does not represent what the managers wanted. It was an effort on the part of inexperienced men in Congress, who did not understand the psychology of labor, to superimpose their will upon a great body of men who were loyally and faithfully, as they have always done, ministering to the wants of the American people in the transportation of commerce and passenger traffic.

This is one of the reasons it has been a failure. It assumed to have compulsion without any power of compulsion. It made of men who set themselves up as judges to decide a given difficulty also mediators, and whenever a judge settles a controversy between two disputants, he no longer can be a mediator between them, because his decision is bound to give dissatisfaction to one side or the other. After that he can not operate as a mediator between the same parties in disputes that may arise in the future. This is a matter, of course, of human nature, and I think it was Artemus Ward who said:

> One man has about as much human nature in him as another, if not more.

[Laughter.]

So we have had this Railroad Labor Board for the last six years, and in the exercise of their jurisdiction I need not undertake to impugn their motives, I need not undertake to criticize them severely, though I might be justified in doing that with respect to some members of it if I desired to inject their personality into this debate. But by the very nature of their creation, by the very nature of their functions and their duties, it was bound to fail because it was a hybrid organization, one part going that way and another part this way, and it was never able to enjoy the confidence of either side.

I said that this Labor Board had lost the confidence of both sides to railroad disputes. In the hearings before our committee—and I want to say on the floor of this House what I said in the committee—in my 14 years of membership on the Committee on Interstate and Foreign Commerce, I have never witnessed a more able or more courteous or more profound discussion of the great problems that confronted us than was engaged in by the men who participated in that discussion before our committee. If you examine the hearings, you will find those who spoke for the railroad labor employees announced that their confidence in this Labor Board, if it ever existed, had been completely destroyed. You will find that the representatives of the railroad managers and the presidents themselves said it would not be resorted to again by either side in controversies that may arise in the years to come. Why? Well, on the part of the employees because, if the Labor Board rendered a decision that was unfavorable to the railroads, the board had no power to compel their obedience, and in many cases railroads that did not like the decisions of the Labor Board ignored them, refused to abide by them, and the employees and the courts and the Government itself had no power to compel the railroads to obey the decisions of the Labor Board, and as a result nobody could do anything.

On the other hand, if the employees did not like the decision of the Labor Board, they had no recourse except voluntarily relinquish their employment, either as individuals or as groups, which would bring about a strike, or accept the will of their employer because the board had no power to compel the employee or employer to obey its decisions. Therefore it is not strange that the employees soon lost confidence in it, and they expressed in one way or another their dissent from its decisions, and then to make matters worse, unfortunately, the chairman of the board, who has flooded us in the last few days with a long letter protesting against this bill, went over the country making speeches in which he denounced members of the employee group because they were unwilling to abide by his decisions, whereas at the same time men on the other side were equally violating them, and the board had no power to compel obedience in either case. So that Mr. Alfred P. Thom—for whom I have a very high regard as a lawyer and as a man, representing the carriers—in the hearings said that in the future neither side will resort to the Railroad Labor Board in the settlement of railroad labor disputes, and we know the same attitude is taken by the men who work upon these great transportation systems. If both sides state that they will not resort to the present machinery for settling their disputes, what are we to do? Shall we face this situation like men and try to solve it, or shall we refuse to act for the public interest or attempt to set up machinery that all parties believe will be successful?

We are confronted as Members of Congress with the situation where the present machinery has broken down, where it has been unsatisfactory to all who have dealt with it, and we must ask ourselves seriously whether, with the situation confronting us, we are willing to do something that will insure peace and harmony and insure uninterrupted transportation and bring a new era in the relations of railroad capital and railroad labor by the enactment of the law before us.

Now I want to outline the details of the law, without undertaking to read it. In the first place, hearings showed that not only did this condition of unsatisfactory adjudication exist in the Railroad Labor Board, but evidence of that dissatisfaction was manifest in every part of the country and in Congress during the last three or four years. When asked by members of the committee why the road executives had gone into conference and reached an agreement with the employees on the principles of this bill, the representative of the railroads stated that in the last Congress a bill had been introduced in the Senate and the House which became known as the Howell-Barkley bill. I do not propose to discuss that measure except in its bearing on the present situation.

This Howell-Barkley bill, among other things, proposed to abolish the Railroad Labor Board. It was reported out in the Senate by the Committee on Interstate Commerce and showed at least, without regard to the merits of other provisions of the bill, that the Senate committee had agreed that the Railroad Labor Board as it now exists had outlived its usefulness, if it had ever had any. In the House the bill was taken from the Committee on Interstate and Foreign Commerce by a vote of the majority, indicating, without regard to any difference of opinion on other principles of the bill, that everybody was practically agreed that the Railroad Labor Board as it now exists ought to be abolished. Therefore, if the Senate committee took such action and believed that the Railroad Labor Board ought to be abolished, and if the House, in taking such action as it took, endeavored to express the view that the Railroad Labor Board ought to be abolished, we are

bound to confront the situation wherein this Congress was likely to pass a bill that would abolish the Railroad Labor Board and adopt something which will take its place.

The bill we have before us does what the Howell-Barkley bill did and what the present law requires; it makes it the duty of both sides to make every effort to agree upon the wages and working conditions. It puts upon the railroads and the employees the legal obligation to exert themselves in every reasonable way to arrive at an agreement over wages and working conditions. So the bill does what the present law does, what the Erdman Act, what the Newlands Act, and what the first law ever passed by Congress did—recognized the right of private agreement between the railroads of this country and their employees with respect to wages and conditions of labor. It provides that it shall be the duty of the railroads and their employees to settle their own disputes. Who does not want them to do that? Who desires to superimpose the right of the Government to interfere with the right of both sides to consult themselves in composing their differences? Who is there who would advocate seriously that it is a wise public policy for Congress to undertake to interject itself into the situation where it may make it more difficult for men to agree, rather than to make it more easy for men to agree? So we provide that it shall be their first duty to get together and settle their own disputes. We provide that it shall be their duty to set up adjustment boards, not to consider questions of wages but disagreements over grievances, interpretations, discipline, and other technicalities that arise from time to time in the workshop and out on the tracks in the operation of the roads. One of the difficulties of the present law has been that while it provided that the men and the roads should form these adjustment boards, for one reason and another they were never able to get together. One said it was the fault of the other and the other said it was the fault of the one. They could not reach an understanding about the creation of these adjustment boards, and therefore they were not created.

The two sides now come forward in an agreement and say that they are ready to acknowledge the mistakes of the past, are ready to wipe the slate clean, are ready to agree that upon the passage of this bill all the railroads in the United States, practically speaking, and all the men who work on the railroads will be able to get together and create these adjustment boards which are provided for as the second step in the adjustment of the relationship of employer and employee.

We set up in addition to that the first public board for which the bill provides, and that is the board of mediation, which is composed entirely of men drawn from the public. Interest on the part of men on either side of a controversy disqualifies them from membership on the Board of Mediation, which is taken wholly from the public. Now, let us say that a dispute has arisen between the railroads and their employees over the question of wages. They have tried their conferences, which they have the right to engage in; they have tried to get together by such representation as they chose themselves by agreement, and have been unable to arrive at an agreement. There is danger of a dispute resulting in a nation-wide tie-up of traffic in this country; then this Board of Mediation may be applied to by either side or may offer its services to bring the two sides together. Complaint is made here that the Board of Mediation is a board of persuaders, with no power of compulsion. My friends, you might as well make up your minds now that you have to take one side of two propositions. You have either got to go along on the theory of freedom of contract, of voluntary arbitration, of mediation and persuasion, or you must go to the other extreme of compulsory arbitration, compulsory decision, and antistrike legislation, which has never succeeded in any country in the world where it has ever been tried. If I had the time, I could show you that in France they tried antistrike legislation, and the only way they could ever enforce it was to draw all of the railroad employees into the army of France and then make them operate the trains as soldiers and not as workers.

I could show you that they tried the same thing in Canada, and that to-day the law is a dead letter, and they have publicly acknowledged their inability to enforce it, because you can not put 2,000,000 men in jail in the United States or elsewhere for violating a law that compels them to work against their will, and you need not think that that method will ever bring about satisfactory results in the adjustment of labor controversies. So that we have either to take the voluntary or the compulsory side of this proposition, and the only practical side, as demonstrated by all of the laws heretofore passed and by every nation which has ever dealt with it, is the voluntary side, where the agencies of government are at the disposal of the disputants in an effort to bring them together, in an effort to arrive at an agreement which both sides will respect, because both sides have had a hand in its creation; and that is the fundamental proposition with which we are confronted to-day and with which this bill undertakes to deal.

Mr. BLANTON. Mr. Chairman, will the gentleman yield?

Mr. BARKLEY. The gentleman must excuse me. If I yield to one, I have to keep it up, and I do not want to take up too much time. Let us suppose that these voluntary conferences and these adjustment boards with respect to grievances and the Board of Mediation have all been unable to bring the two sides together. Then the law provides for arbitration, and bear in mind that is also voluntary. There is no power of compulsion upon either side to make them arbitrate, but, my friends, there is a higher power than the strong arm of government, and that is the power of compulsion of public opinion and public duty, and at the same time the private interests of both sides. I venture to say that neither a railroad company nor a railroad employee ever brings about a strike unless it is the last resort, the last step in an effort to secure what they may think are their rights. Those who think that men go out of work and make their women and children suffer for the necessities of life because of any vicious desire to interrupt traffic do not understand the principles of human nature.

A strike is always the last resort to which men go in an effort to secure their rights. We will suppose that they have been unable to agree, that the Board of Mediation can not get them together. Then this Board of Arbitration is set up, each side naming one man, or, if they want six arbitrators, each side naming two, and then these two or four, as the case may be, agree on the others. If they can not agree on the neutral arbitrator or arbitrators, then the Board of Mediation, which is a board appointed not from the two sides but from the public, select the third arbitrator, and before they go into the arbitration both sides agree what is the cause of the dispute, both sides agree what is to be decided, and both sides agree in advance that they will abide by the result. When that result is arrived at the award is filed in the United States court and becomes binding upon both sides, with the same force and effect as if it were a judgment of a court of the United States.

I have been asked whether that binding judgment can be enforced. Of course, it can not be enforced to prevent an individual employee from stopping work if he desires to, but no law can ever be passed that will prevent a man from doing that; but where the controversy is between groups, as it will be, the binding effect of this judgment in the United States courts, which both sides have in advance agreed to abide by, becomes as enforcible against each group as if it were a judgment of a court without regard to arbitration. And so, gentlemen, there is the third step toward the settlement of these disputes. Let us suppose that all these methods have been adhered to and that even yet they can not get together. Of course, gentlemen will understand that if they ever arbitrate, that settles it, because one side is represented by one man and the other side by another, and the third man is taken from the public, and in all arbitrations the neutral arbitrator becomes the judge, because he settles it as an umpire, and even in a board of arbitration the public has the power to bring about a decision as between the parties on either side. If there is arbitration, that settles the dispute, but if they do not begin to arbitrate, and there is danger of a nation-wide strike or any serious interruption of public commerce, the Board of Mediation, appointed by the President, confirmed by the Senate, representing neither side, but representing the public interests, reports to the President the fact that they have been unable to bring about a settlement, and that there is serious danger of an interruption of traffic, and then the law provides that the President shall have the power to appoint an emergency board for the purpose of investigating the merits of the controversy and reporting to him upon it.

Complaint has been made here and will be made, perhaps, that this emergency board is not given any power to enforce its decisions. You will bear in mind that the duty of the emergency board is to get the parties together and to report to the President. That board is a presidential board which is to be selected not from either interest but by the President from the body of our public citizens. They will exercise whatever mediatory or persuasive powers they might possess. If they can not bring the parties together, then it is made their duty to make a report upon the merits of the controversy, and by means of that report the power of public opinion is brought to bear and focused upon the side which is recreant or blamable for what might be a public calamity. The public are to be given the facts, upon which they will form their own judgment. Complaint is made that this board has not even the power to serve a subpœna, to go out and drag witnesses before it, and bring documents for the purpose of investigation. My

friends, let us imagine this situation: Whenever a dispute has become so acute as to require the services of this superboard, as it has been called, this emergency board, which is the last resort, we may well imagine that both sides to the controversy, having in view their desire to impress upon the public their sides of the dispute, the merits of their controversy, and the justice of their demands, will be anxious and impatient to lay before this board and the public every pertinent fact or circumstance without the intervention of a United States marshal. Either side that refused to do so would be pilloried before the bar of public opinion. We know that here in our committees in Congress we never have to send a sheriff to bring in witnesses whenever there is a controversy over the passage of a bill. Both sides are always glad to come and give Congress the facts. But if Congress should see fit to give this board power to summon witnesses and drag men in by the scruff of the neck and make them testify or produce some petty document, the result is that not only would there be no disposition to compose their respective differences and try to get together but it would drive them further apart, and the value of their report might be prejudiced in advance because of some petty exercise of authority.

You need not have any fear. Both sides will not only be glad but anxious to give to the public their side of the controversy in order that the public may judge of its merits. Now, that is the machinery which this bill sets up. Can you improve upon it?

I want to talk for just a moment about the right of the public. I have already said that in all the laws which have been passed heretofore Congress has never undertaken to exercise any right or restraint over a private contract. There is some opposition to this bill which is engendered from a so-called belief or fear—and I take it that it is sincere—that the railroads and the employees may get together and make some sort of collusive agreement so as to boost wages with the expectation that the Interstate Commerce Commission would be required to pass that increase on to the shoulders of the public. Well, while the railroads and employees have a common interest, there is nothing more competitive than their interest. Every railroad that agrees to an increase in wages knows first that they must either pay that increase out of their own treasury or they have to persuade the Interstate Commerce Commission, which represents the public, that that charge ought to be passed on to the public, and in either case there is no inducement for the railroad company entering into a collusive agreement with its employees in order to boost wages upon its system. Then they say that the Interstate Commerce Commission ought to be given the power to supervise or suspend any decision or agreement fixing wages, and I understand that an amendment is going to be offered here providing that the Interstate Commerce Commission shall have the power to suspend or regulate or nullify agreements that may be entered into between the railroads and the employees with respect to wages.

Now, my friends, in addition to the fact that we have no constitutional power to do that, no power to interfere with private agreements, there would be nothing more disastrous that could happen to the Interstate Commerce Commission, which enjoys public confidence, than to drag it into these labor disputes which may arise in the United States from time to time.

In 1919, when the House Committee on Interstate and Foreign Commerce was considering the question of the return of the railroads to their owners and the passage of some law to bring that about, Commissioner Clark, who was then, I believe, chairman of the Interstate Commerce Commission, who spoke before our committee on behalf of the entire commission when this matter was discussed, in referring to such a suggestion made at that time, used the following language:

> We think it would be an unsound public policy to place in one body the duty of regulating the activities of the carriers and their rates and charges from which their revenues are derived, and also the fixing of the largest item in the operating expenses of the railroads, to wit, the wages of the employees. Personally, I believe it would develop in a few years that it would be destructive of the influence and standing and opportunity for good of the entire plan, and of the body that administers it.

That was the chairman of the Interstate Commerce Commission, and in that document he recommended to Congress that we place no such burden upon that great commission which stands between the railroads and the public, and which is supposed to be impartial, and which is charged with the duty of investigating the matter of economical management and operation of the railroads in passing on questions of rates and charges; but we have placed upon it no power to supervise or interfere with or in any way to control or be involved in the settlement of railroad disputes between railroads and their employees.

Mr. KINCHELOE. Mr. Chairman, will my colleague yield?

Mr. BARKLEY. I do.

Mr. KINCHELOE. The gentleman has stated what would happen when an award is made. Does the gentleman think under this bill, if it is not amended, if these operators of railroads would come before the Interstate Commerce Commission and ask for an increase of rates, would the commission be legally bound to take into consideration this award?

Mr. BARKLEY. Of course they would not be justified in ignoring it as an elment of operating cost. But they are not only not legally bound to raise the rates on account of it, but they are under no moral obligation to increase rates unless they are convinced that the award or agreement fixing wages enters into the economical management of the roads. In other words, if they find that an increase of wages should justly be taken out of the profits of the railroads they would not be expected nor justified in raising freight rates by reason of such increase in wages. The commission has the power and duty of giving this element of cost such weight as it may merit in determining rates.

Mr. KINCHELOE. Then the gentleman thinks the amendment would not be necessary in the administration of this law?

Mr. BARKLEY. No. If it were adopted, I will say to you frankly that it would be simply an invitation to everybody who desired to attack it to come before the Interstate Commerce Commission and undertake to convince them that even an award of the board of arbitrators was an unmeritorious increase.

Mr. MOORE of Virginia. Mr. Chairman, will the gentleman yield?

Mr. BARKLEY. Yes.

Mr. MOORE of Virginia. I believe the gentleman stated to his colleague that the Interstate Commerce Commission was not only not bound to increase rates because of an increase of wages, but is restrained from allowing or maintaining any unreasonable and discriminatory rates?

Mr. BARKLEY. Yes.

Mr. MOORE of Virginia. Does not the gentleman think this is a dangerous amendment from this point of view?—assuming that the Interstate Commerce Commission would not be compelled to raise rates because of an increase of wages, would not this amendment, if adopted, by implication say that the Interstate Commerce Commission, if it looked into the matter of an increase of wages and found that it was meritorious, then as a matter of course it would increase rates? Is not that the implication of this amendment? And does it not seem to the gentleman that that would operate injuriously?

Mr. BARKLEY. I think it would.

Mr. NEWTON of Minnesota. Mr. Chairman, will the gentleman yield there?

Mr. BARKLEY. Yes.

Mr. NEWTON of Minnesota. I agree with the gentleman that the Hoch amendment would be injurious. I think it ought to be brought out that there is a clear distinction between the Hoch amendment and the proposed amendment that has been circulated around here, which goes very much further than the Hoch amendment.

Mr. BARKLEY. That is true. That is the amendment that substitutes the Interstate Commerce Commission for the Railroad Labor Board, to suspend decisions, and proposes to give the Interstate Commerce Commission the power to suspend all arrangements and agreements and arbitrations between the railroads and their employees. And not only would that be an invitation to the commission to inject itself into every question of wages, but it would bring about such a degree of uncertainty between the railroads and their employees that they would never know when they had entered into an agreement or adjusted their difficulties by an award; they would never know whether it was settled or unsettled until the Interstate Commerce Commission had passed judgment upon it and declared it either unreasonable or reasonable, and hence they would never agree to settle a dispute by arbitration.

Mr. CRISP. Mr. Chairman, will the gentleman yield?

Mr. BARKLEY. Yes.

Mr. CRISP. Would any rights now enjoyed by the public under the present laws be impaired by the enactment of this bill?

Mr. BARKLEY. No. No rights that the public now enjoys would be infringed upon or lessened or interfered with by the enactment of this bill.

Now, that brings me to the discussion of what are the public rights. Fear has been expressed here about passing wage

increases on to the public. We might as well admit and start out by assuming that the public has to pay the operating expenses of the railroads. There is no way to avoid that. And in addition to that we must also bear such expense as will result in a reasonable profit to the people who have invested their money in railroads. We are bound to assume that the railroad man has just as much right to a just wage as any other man engaged in industry. The public has the right to uninterrupted commerce: it also has the right to bring about the powers of government to prevent strikes and interruption of traffic. The public in itself and per se, however, has no more right to say what a railroad man shall receive as his wage than to say what the shoemaker or the blacksmith or any other worker anywhere in the United States shall receive. [Applause.]

The right of the public enters when the public is about to be denied something that is necessary for its existence. The right of the public is to have an interest in the continuous and uninterrupted transportation of the necessaries of life and of industry, and therefore the public has a right to an interest in the prompt settlement of any dispute on the railroads of the country which threatens this continuous and uninterrupted transportation. And this is the extent to which either Congress or the courts have gone thus far in undertaking to interpret or safeguard the rights of the public in railroad wage disputes.

For example, if the freight from Boston to Washington on a pair of shoes that cost $10 is 5 cents, and two-thirds of that 5 cents is represented by labor, has the public any more right to say what the man shall receive who brings those shoes from Boston to Washington than it has to say what the man shall receive who made the shoes in Boston in the beginning? As an economic proposition and as a matter of moral justice, I assert that as such the public has no more right to a voice in the agreements between railroad men and their employers than it has in the agreements between shoemakers or steel workers and their employers, or between the employers and employees of any other great industry in the fixing of the compensation paid in the employment of labor. [Applause.]

Mr. FRENCH. Will the gentleman yield on that point?

Mr. BARKLEY. I yield.

Mr. FRENCH. I think I must take issue with the gentleman.

Mr. BARKLEY. Well, all right.

Mr. FRENCH. I take issue for the reason the railroads are public-service institutions. Competition in rates on the one hand and in the matter of wages paid on the other is largely removed because of the public interest. Because of this wiping out of competition in a way that does not exist in such institutions as the manufacturing concerns to which the gentleman refers, the welfare of both the employers and the employees must be protected.

Mr. BARKLEY. I am speaking now, of course, from an economic and moral standpoint. I realize that the commerce clause of the Constitution gives the Congress the power to regulate commerce and to regulate the instrumentalities of commerce; but I say the mere fact that the public pays the bill for hauling freight does not give it any more right to fix the wages of the laborers who carry the freight than to fix the wages of the men who create the freight in the beginning.

Mr. FRENCH. May I just continue? When the Government——

Mr. BARKLEY. The gentleman can obtain time to express his views. I respect the gentleman's views, but I can not always adopt them, nor the reasoning by which he reaches them. I should be glad to yield further, but I have not the time.

Mr. FRENCH. The gentleman's time is limited, and I shall not intrude further.

Mr. BARKLEY. I have occupied so much time already, I dislike to trespass very much longer.

Let me be a little more specific. In 1922 a report was made by the Joint Congressional Commission of Agricultural Inquiry, which had been appointed to inquire into the conditions surrounding agriculture. Hon. Sidney Anderson, of Minnesota, until lately a Member of this House, was the chairman of that commission. The report consists of four volumes, and goes into great detail with reference to all phases of agricultural conditions. Among other things, it reported on the proportion of the ultimate cost charged the consumer on a number of commodities that is represented by transportation charges. In illustration of the thought I have endeavored to express, I call attention to some of them set forth in the report.

Taking eight groups of trade-marked food products, it is shown that out of each $1 paid therefor by the public the transportation charges amount to 8.76 cents—less than 9 cents. In the sale of canned milk, 6 cents out of each dollar represented transportation charges. Of the 10 cents paid for a loaf of bread, one-third of a cent represents the cost of transporting the wheat to the mills and one-sixth of a cent the cost of bringing the flour to the baker. About 11 or 12 cents represents the transportation charge out of each dollar paid for rolled oats and corn flakes. On salt, transportation gets 18 cents out of each dollar paid by the consumer. For wheat cereals, 8 cents out of each dollar paid represents transportation. For soap it is seven and a half cents; for manufactured package food, 12 cents; for dressed beef it is less than 6 cents. For men's suits and shoes it is even less, the freight on an ordinary suit of clothes being about 6 cents for 300 miles and about 5 cents for a pair of shoes for the same distance, provided they are carried in bulk. The freight charge on 100 pounds of ham from Iowa to New York is about 75 cents. If dealers' purchases are made from supplies that are reasonably convenient, the freight charges do not exceed 1 cent per pound on sugar, coffee, oatmeal, potatoes, eggs, fresh meat, butter, or more than 25 other important articles of food. Of course, there are many heavier commodities, such as hardware, coal, iron, and steel, on which the freight charge is higher.

I am not seeking to create the impression that even the transportation charges to which I have referred are as low as they ought to be. I am convinced that on many articles of necessity in this country, and especially on some varieties of farm products, the rates are too high. But what I am seeking to emphasize is the fact that if the public has a right to fix the compensation of men who labor on railroads merely because the public ultimately pays the bill in freight rates, which are only a small portion of ultimate prices, then, if we follow that logic to its conclusion, the public would have the same right to fix the compensation of men who labor in the industries which produce the freight to be carried in commerce; and this, in turn, would put the public, through the agencies of government, into the fixing of all costs and of all prices, because in the end the public must pay all this in the price of what it buys. This would ultimately mean Government operation of everything, which is unthinkable. [Applause.]

Therefore, as an economic proposition I maintain that the interest of the public is not in the fixing of wages but in continuous transportation, in bringing about agreements and settlements of disputes so that their rights will not be invaded by long-drawn-out controversies over wages and disputes.

Mr. BLACK of Texas. If the gentleman will yield, will not the gentleman add to that the public have the right also to have this transportation at reasonable rates?

Mr. BARKLEY. Yes; and it has the Interstate Commerce Commission to see that this right is exercised. [Applause.]

My friends, I do not know that I can add much more to what I have already said with reference to the merits of this measure. After the fight which engaged our attention in the last Congress, and in response to Executive suggestions in three separate messages, the railroad executives and their employees have come to an agreement under legislation involving their rights and interests. They come here and appeal to us to enact it into law. They say it will work. Their moral obligation is to see that it will work. If we accept the results of their deliberation and their sacrifices—and both sides have yielded on important questions—and then it fails to work successfully, the Congress will be here to make another effort to find a remedy for this great problem. I trust that if it ever seeks out of its own counsel to find a remedy of its own it may find one that will be more successful and beneficial than that which has been in effect for the last six years as a result of the enactment of Title III of the transportation act. [Applause.]

Complaint has been made that in this bill the public is deprived of something which it now enjoys under the present law. Those who make this contention misunderstand either the bill itself or the present law, and possibly both. Under the present law all that the public has in the way of representation is one-third of the membership of the present Railroad Labor Board. The public is given in the present law no representation on any adjustment boards that might be set up by agreement, and under the present law the public is not given any supervision over private agreements as to wages, and Congress is powerless to bring about supervision or control over private agreements.

Under the present bill, which we are about to pass, there are three separate boards set up in the various stages for the settlement of railroad disputes. First, the Board of Mediation, composed of five men appointed by the President and con-

firmed by the Senate; all of them are taken from the public. Not one of them can be interested on either side of any dispute.

After this, arbitration boards are provided for, if the Board of Mediation is unable to settle the dispute. The public has one-third of the membership of these boards of arbitration, and experience has shown that the neutral representatives on boards of arbitration usually decide the terms of any award of settlement, so that on these boards the public has the same representation it now has on the Railroad Labor Board.

In addition to these, the bill provides for an emergency board to be appointed by the President. This board is also taken entirely from the public, so that under this bill, of the three different kinds of boards set up, the public has the entire membership on two of them, and one-third of the membership on the other. I challenge, therefore, any man to point to any law that now exists, or that has heretofore existed, where the interests of the public are more completely safeguarded than in the provisions of this bill.

It gives me pleasure to support this measure. If my efforts in the past have contributed anything toward this happly consummation, I am grateful for the opportunity which was mine. I hope this measure will be enacted without serious amendments. Therefore, I hope that the amendments which have been suggested, which may interfere with the harmonious operation of this law, will all be defeated, and I trust that after the enactment of this legislation we shall have a new era of peace, harmony, and sincere cooperation between the railroads and their employees throughout the Nation, and that the interests of all the people will be protected in the enjoyment of the right to the best as well as the cheapest transportation that it is possible to afford them. [Applause.]

Mr. PARKER. Mr. Chairman, I yield 15 minutes to the gentleman from Texas [Mr. BLACK].

Mr. BLACK of Texas. Mr. Chairman, I have listened to the able speech of the gentleman from Kentucky [Mr. BARKLEY] with a great deal of interest and pleasure, and I hope the pending bill will accomplish all that he has predicted that it will accomplish. I do not think that it sets up any very different machinery from that contained in the Newlands Act of 1913. The Newlands Act provided for a board of mediation and conciliation and also provided for an arbitration board in the event that the mediators were unable to bring about a settlement. The Newlands Act was adopted in the face of a national disagreement impending between the carriers and their employees. After several months of negotiation they agreed upon a bill, which when enacted became the Newlands Act, and brought it to Congress under circumstances very similar to those which now exist. It was predicted by the proponents of the Newlands Act that if Congress would pass it a new era would dawn in the transportation industry so far as the labor relations between the carriers and their employees were concerned.

As illustrative of that let me quote from a speech made by Senator Pomerene, of Ohio, in the Senate at the time the bill was pending. The employees and the railway management said, "You must not amend this bill; we have agreed upon it in this particular form. This represents the meeting of our minds, and you must not alter it." Senator Pomerene referred to that fact in his speech in the Senate. He said:

> Mr. President, I am in favor of this bill as it is written, and though in some respects I would prefer to see a change I will not vote to change a single word in it, and for the reasons I shall state: It appears that before the committee the railway companies, through their presidents and representatives, and the railway men's organizations, through their chiefs, said that this bill represented months of work; that while there were slight differences of opinion they all agreed to accept it as a solution of the problem. A number of the witnesses, when interrogated before the committee, said, in substance, that if the bill was passed as it was written they did not believe there would be a single railroad or a single organization that would refuse to accept the plan of settlement here adopted.
>
> It stands to reason that when they come before the Congress asking that this plan be incorporated into a statute no one of these parties would be in a position where he could honorably say, "I will not accept the plan of mediation or of arbitration which is therein contained."

And yet, despite these optimistic predictions of Senator Pomerene, in 1916 when that dispute arose which threatened to tie up every line of transportation in the United States, and when mediation had failed to mediate and conciliation had failed to conciliate, the carriers and their employees came to Washington and invoked the aid of the President of the United States. After considerable negotiation and conferences the President undertook to convince the carriers that they should agree that 10 hours' pay should be given for 8 hours' work. In other words, that 8 hours should be considered a standard for a day's pay in railroad work. The President insisted that the carriers accept that and arbitrate all the other matters in controversy. The carriers said "No; we insist that all matters in controversy, including the 8-hour day, be arbitrated."

The employees said:

> We are willing to arbitrate everything but the eight-hour day. That we will not arbitrate.

I know of no clearer statement of the real situation which existed than that which President Wilson made in the opening words of his statement to Congress August 29, 1916.

He said:

> Gentlemen of the Congress, I have come to you to seek your assistance in dealing with a very grave situation which has arisen out of the demand of the employees of the railroads engaged in freight-train service that they be granted an eight-hour working day, safeguarded by payment for an hour and a half of service for every hour of work beyond the eight.
>
> The matter has been agitated for more than a year. The public has been made familiar with the demands of the men and the arguments urged in favor of them, and even more familiar with the objections of the railroads and their counter demand that certain privileges now enjoyed by their men and certain bases of payment worked out through many years of contest be reconsidered, especially in their relation to the adoption of an eight-hour day. The matter came some three weeks ago to a final issue and resulted in a complete deadlock between the parties. The means provided by law for the mediation of the controversy failed, and the means of arbitration for which the law provides were rejected. The representatives of the railway executives proposed that the demands of the men be submitted in their entirety to arbitration, along with certain questions of readjustment as to pay and conditions of employment which seemed to them to be either closely associated with the demands or to call for reconsideration on their own merits; the men absolutely declined arbitration, especially if any of their established privileges were by that means to be drawn again in question. The law in the matter put no compulsion upon them. The 400,000 men from whom the demands proceeded had voted to strike if their demands were refused; the strike was imminent; it has since been set for the 4th of September next. It affects the men who man the freight trains on practically every railway in the country. The freight service throughout the United States must stand still until their places are filled, if, indeed, it should prove possible to fill them at all. Cities will be cut off from their food supplies, the whole commerce of the Nation will be paralyzed, men of every sort and occupation will be thrown out of employment, countless thousands will in all likelihood be brought, it may be, to the very point of starvation, and a tragical national calamity brought on, to be added to the other distresses of the time, because no basis of accommodation or settlement has been found.

* * * * * * *

Will my friend from Kentucky deny that that was the case?

Mr. BARKLEY. My mind was diverted for the moment. Will the gentleman state his question again?

Mr. BLACK of Texas. I say that the carriers were facing a nation-wide strike, and said, "We will arbitrate all of the matters in controversy."

Mr. BARKLEY. The employees agreed to arbitrate all the matters of dispute except the eight-hour day.

Mr. BLACK of Texas. I am simply rehearsing these facts which we are all agreed upon to emphasize the point that we might as well understand that this bill sets up no new plan of settlement. I hope it will be successful, but gentlemen who are predicting that the millenium has come in industrial relations will probably have cause to revise their remarks. These same optimistic predictions were made when the Newlands Act was passed in 1913.

Mr. BARKLEY. Will the gentleman yield?

Mr. BLACK of Texas. Yes.

Mr. BARKLEY. I want to call the gentleman's attention to the fact that except for the difficulty that resulted from the Adamson law, all the predictions were fulfilled.

Mr. BLACK of Texas. Yes. But that was the "big heap" trouble of them all; that threatened a nation-wide paralysis of transportation.

Mr. BARKLEY. Would the gentleman from Texas, if he was a laborer and believed in the principle of the eight-hour day, agree to submit it to arbitration?

Mr. BLACK of Texas. Yes. If I believed my rights were so clearly understood by the country as the railroad brotherhood leaders asserted, I would be willing to risk my chances under the law that I had advocated when Congress passed it and promised by my leadership that we would obey and abide by it.

Mr. BARKLEY. The gentleman might be willing to submit it to the general public, but not be willing to submit it to two or three individuals.

Mr. BLACK of Texas. Well, I will not enter into a controversy with my good friend from Kentucky on this point, because my only purpose in referring to it was to emphasize the fact that there do come times in industrial disputes when mediation will not mediate and when conciliation will not conciliate and when one or both sides of the disputants will reject voluntary arbitration. Just when that situation will come again in the transportation world, as it did in 1916, I do not know nor do I pretend to say. Whenever it does come, however, Congress will have to do more than the gesture provided in section 10 of this pending bill. Now, Mr. Chairman, I have read the hearings on this bill, and I observe that the chief witnesses who appeared before the committee in its behalf were Donald R. Richberg, attorney for the organized railway employees, and Alfred P. Thom, attorney for the railway executives. Between the two of them they have drawn up a bill which we are asked to pass without an amendment, not even to dot an "i" or cross a "t," and I, for one, do not propose to do it. I propose to exercise the right of amendment which belongs to me as a Member of Congress.

Mr. DENISON. Will the gentleman yield?

Mr. BLACK of Texas. In a moment.

Mr. DENISON. I think the gentleman has not stated it correctly. They made no such request as that.

Mr. BLACK of Texas. I said that we are asked to do so.

Mr. DENISON. Oh, no; we are not.

Mr. BLACK of Texas. Perhaps the gentleman thinks he is not being asked to do that?

Mr. DENISON. The committee amended the bill in a dozen or more places.

Mr. BLACK of Texas. Of course, if the gentleman is laboring under the impression that he is not being asked to do that, I would be the last one to disturb him in his happy state of mind. [Laughter.]

I am perfectly willing to concede that the carriers and their employees may enter into any lawful agreement by mutual understanding concerning wages and working conditions without it being any of Congress' business, and we would neither have the right nor the disposition to interfere. But when it comes to entering into an agreement as to legislation which they hand to Congress to enact, that raises a very different question. Are we to have our hands tied and must needs refrain from offering amendments which we think are in the public interest merely because the railroad brotherhoods and the carriers have agreed and say there must be no changes? Is Congress so dominated by groups and factions as to make that possible? I do not believe it. I believe the bill should be amended. I believe it will be amended.

One school of thought goes so far as to say that all wage agreements entered into by the carrier and its employees should be subject to the approval of the Interstate Commerce Commission and that the commission should have the power to veto wage-increase agreements when it does not approve. Mr. James A. Emery, general counsel of the National Association of Manufacturers of the United States, evidently holds to that view, and suggested that the bill be amended so as to provide:

> Copies of all agreements or awards of arbitrators made under the provisions of this act between any carrier and its employees affecting rates of pay, rules, and working conditions shall be by the carrier filed within 10 days with the Interstate Commerce Commission. The Interstate Commerce Commission may, upon its own motion, within 10 days after the filing of such agreements or awards affecting rates of pay, rules, and working conditions, suspend the operation of such agreement or award if the Interstate Commerce Commission is of the opinion that the effect thereof involves such increases in wages or salaries as will be likely to necessitate a substantial readjustment of the rate of any carrier. The Interstate Commerce Commission shall hear any such agreements or awards so suspended and as soon as practicable and within due diligence decide to affirm or modify such suspended agreement or award.

I do not believe it would be wise to give the commission that power. I shall oppose such an amendment if it is offered. On the other hand, there is another school of thought, who believe that any agreement entered into by the carriers with their employees, either voluntary or by arbitration, should be as unchangeable as the law of the Medes and Persians and regardless of how high freight rates already are, these additional charges should be passed on to the public in the form of increased freight rates, if the Interstate Commerce Commission finds it is necessary to do so, in order to enable the carriers to meet the additional cost. Of course those who advocate the enactment of this bill without amendment deny they hold any such views, but I submit that it is a perfectly fair inference to assume they do hold such views, when we observe their strenuous opposition to any amendment which would clarify the situation. Mr. HOOH, of Kansas, in a statement of additional views filed with the House, says he will offer an amendment on page 24 at the end of line 20, which will read:

> *Provided*, That nothing herein shall be construed to preclude the Interstate Commerce Commission from considering the merits of any such arbitration award when determining freight or passenger rates or other charges.

Some such amendment should be adopted. There is such a thing as laying on the last straw which will break the camel's back. At this very time, demands for wage increases by railway employees are in the offing which will increase the operating expenses of the carriers many millions of dollars. I have seen estimates of the probable cost ranging from $100,000,000 to $500,000,000.

Mr. NEWTON of Minnesota. Mr. Chairman, will the gentleman yield?

Mr. BLACK of Texas. Yes. I yield to the gentleman.

Mr. NEWTON of Minnesota. In the evidence submitted to the committee statements were made that the figures in the press were wholly excessive and without foundation.

Mr. BLACK of Texas. I shall quote from the hearings and show that some witness stated before the committee that the estimates had been made that these wage demands if allowed would aggregate all the way from $100,000,000 to $500,000,000.

Mr. NEWTON of Minnesota. That was the testimony I think of Mr. Emery, but the representatives of the men absolutely denied it.

Mr. BLACK of Texas. Perhaps. I shall put in the testimony, whoever testified to it. I do not now remember which witness it was.

I have now looked it up and I find that on page 286 of the hearings, Mr. Emery makes the following statement:

> As this discussion proceeds, demands are being made, the effect of which upon the operating costs of the railroads is uncertain. But it is estimated at all sorts of sums from $100,000,000 to $500,000,000 from these demands, if such burdens are imposed upon the whole structure. Now, in such a case, surely if an agreement was made that was very great in its nature, there ought to be somebody to inquire into its effect on the rate structure. It will have to do so eventually; why not when it is made?

It is not for me to undertake to prejudge these wage demands, nor to pass upon their merit or demerit, but what I do say is that the freight-rate structure of the United States is already high enough and under no circumstances should it be increased. As a matter of fact, I do not hesitate to say that some of the present prosperity of the carriers should be immediately passed on to agriculture in the form of lower freight rates, and as between equities the farmers have a greater right to have this done than the employees have to demand another wage increase or the stockholders of railroads have to demand increased dividends. And I for one am not going to vote for any bill which later on may be held to be a sort of a cost-plus plan, which will compel the Interstate Commerce Commission to pass these increased operating expenses on to the public in the form of increased freight rates, or at least to withhold freight reductions, to which the people are justly entitled.

I do not object to the machinery which is set up in this bill for adjustment of differences between the carriers and their employees. I do not think they are going to bring about any millennium in industrial relations, but if the bill is amended so as to safeguard the public interest, I am perfectly willing that the machinery be tried out, and I hope it will be a great success.

Mr. HOWARD. Mr. Chairman, will the gentleman yield?

Mr. BLACK of Texas. Yes. I yield to my good friend from Nebraska.

Mr. HOWARD. Would the gentleman be kind enough to point to one single instance where the interests of the American people as a whole have ever been safeguarded by the present Interstate Commerce Commission?

Mr. BLACK of Texas. Of course, the gentleman has his own opinion about the commission, and I do not defend all it has done, but it is the only commission that I know of that we can appeal to in a matter of this kind, and I do not want to tie its hands. It is putting entirely too much power into the hands of a few to allow the organizations of the railroad brotherhoods and the organizations of railway executives to dictate to Congress just what kind of a bill we shall pass and to say to us, "You must not amend it."

The strength of America does not lie in its great organizations of capital or its great organizations of labor. The

strength of America lies in the morale of its people. And that morale can only be preserved by maintaining faith in the people's representative government, faith that they will be strong enough and courageous enough to always keep the public's interest as the paramount consideration in any act of legislation, and that its rights, within the limits of the Constitution, will always be superior to the rights of any faction, group, or organization. [Applause.]

Mr. PARKER. Mr. Chairman, I yield 30 minutes to the gentleman from Michigan [Mr. MAPES].

Mr. MAPES. Mr. Chairman, as often happens here after a general debate has continued for some time, it is very difficult to express any new thoughts on the bill under consideration. In this debate, after the very able and thorough discussion of the bill which has been had this afternoon, I can not hope to add anything particularly new. The most I can hope to do is to approach the subject perhaps from a little different viewpoint than has already been done.

Just a reference to the statements made by the gentleman from Texas [Mr. BLACK], who has just preceded me. I understand the position of the proponents of this bill, as far as amendment is concerned, to be this: In their judgment as practical railroad operators and workers, they think that the agreement which they have arrived at, which is incorporated in the provisions of this bill, will work out better if it is not materially amended by the Congress, although they recognize, of course, the duty of Congress to protect the public interest and to safeguard the public in the passage of this as well as other legislation. But having agreed upon a bill such as they have brought before us here, they feel that they would be under a greater moral obligation to see that it works out properly in practical operation than they would be if it is amended in any substantial particular. To amend it in substance they say would destroy the agreement and would relieve one side or the other from a part at least of the moral obligation which he would otherwise be under to make it work, and therefore they say to the Congress of the United States, "We believe earnestly that it will be better, and we hope it will appeal to your judgment to pass the bill without substantial amendment."

Mr. Chairman, miracles have not ceased to happen. Capital and labor, employer and employee, railroad management and organized railroad labor are in agreement and have joined forces in coming to Congress to urge the passage of the same piece of legislation for the purpose of promoting their own best interest and the best interest of the country.

I am for the bill which they propose and which is now before us. I believe it is good legislation. It lays down a method of procedure for the settlement of railroad labor disputes which it seems to me comes more nearly embodying correct principles for settling differences between employer and employee than anything that has heretofore been suggested in a legislative way that I have knowledge of. It is the result of negotiations between the parties directly involved, the railroad executives and the employees of the railroads, covering a period of something over a year. It is their joint proposal. It is their agreement. They present it to Congress for approval. They say emphatically that if it is so approved that it will work.

While the bill rests primarily and fundamentally upon the agreement of the parties directly involved, it at the same time creates certain obligations which are capable of being enforced by court process, besides placing the parties under the highest moral obligation to attempt in good faith to settle in the manner provided for in the bill all differences which may hereafter arise between them.

It is easy to be overoptimistic about the beneficial effects anticipated from the passage of proposed legislation. For one I have long since given up the notion that the enactment of a law will bring on the millennium, and it is no doubt too much to expect that the passage of this bill will accomplish that result even in the settlement of railroad labor disputes. Perhaps the most that can be said for law is, as some one has expressed it, that it makes it a little more easy to do good and a little harder to do wrong.

It seems to me that anyone who studies this bill without prejudice or bias will come to the conclusion that the passage of it will at least accomplish that if nothing more. With its provisions enacted into law it ought to be a little more easy for railroad labor and railroad management to settle their differences amicably and likewise a little harder for them not to do so. If it does that and nothing more its enactment will not have been in vain. But there is ample justification for anyone who is so inclined to become enthusiastic over the prospective passage of it.

Mr. Donald R. Richberg, counsel for the 20 different railroad labor organizations who are supporting this legislation, made the opening statement in behalf of the bill before the Committee on Interstate and Foreign Commerce. He stated one of the purposes sought to be accomplished through its enactment in language which I would like to call attention to especially. I believe it will help to a better understanding of the bill and of its spirit:

> Most of the laws that this Congress passes—

He said—

> are laws in some measure of compulsion. The power of Government is exercised in most instances to compel the doing of that which is regarded as necessary for the public interest.
>
> There is, however, another great function of Government which it is unfortunate it is not permitted to exercise oftener, and that is the cooperative power of Government, the power of the organization of the State to cooperate with various groups, various interests in the community to aid them in the advancement of the common interest. Now, that is peculiarly the sort of action which is sought at the present time from Congress. We are seeking the cooperation, we are seeking the aid of the Government. We are not seeking, either one or both together, to ask the Government to swing a club to compel some one to be good; to swing the force of Government to stop somebody from being bad. We are asking that Congress help us, as only the Government can help us, in establishing a cooperative machinery to improve industrial relations on the railroads for the common good of all the people.
>
> So let me ask—

Mr. Richberg continued—

> that when you read this bill and when you consider it you do carry in mind the idea that it is the agreement of the parties

As pointed out in the report of the committee on the bill it follows almost to the letter the principles announced in the labor plank of the National Republican platform of 1924.

President Coolidge, in his message to Congress as long ago as December, 1923, referring to railroad labor disputes, said that—

> If a substantial agreement can be reached among the groups interested there should be no hesitation in enacting such agreements into law.

Again in his message to this Congress December 5, 1925, the President said:

> I am informed that the railroad managers and their employees have reached a substantial agreement as to what legislation is necessary to regulate and improve their relationship. Whenever they bring forward such proposals, which seem sufficient also to protect the interests of the public, they should be enacted into law.

The pending bill represents the agreement of the parties referred to by the President.

What does the bill provide?

After the definition of terms in the first section it starts off in the second section with the solemn declaration that it shall be the duty of the carriers and their employees to exert every reasonable effort to settle all differences and disputes in conference of the parties, or their representatives, and it is specifically provided that the representatives of the respective parties shall be chosen in such manner as they see fit without any interference or coercion by either party over the other.

In other words, the bill recognizes and declares the legal as well as the moral obligation of the parties to use every effort to settle all their disputes themselves in conference, amicably and without calling in any outside help. That is the spirit in which the entire bill is written. That thought can not be overemphasized.

Broadly speaking, the bill divides disputes into two classes:

(1) Those arising out of grievances or out of the interpretation or application of agreements concerning rates of pay, rules, or working conditions;

(2) Those in respect to changes in rates of pay, rules, or working conditions.

Different methods are provided for the settlement of these two different classes of disputes if the parties fail to settle them in conference. If they are not settled in conference provision is made for the settlement of grievances and minor disputes by adjustment boards and for the settlement of major disputes, those relating to changes in rules, working conditions, and rates of pay, by arbitration.

Section 3 provides in case disputes over grievances are not settled in conference, that boards of adjustment shall be created by agreement of the carriers and their employees for the purpose of settling such grievances and it sets forth what such agreement shall contain.

The successful operation of this section relating to boards of adjustment depends upon the action and voluntary agreement

of the parties. Mr. Robertson, president of the Brotherhood of Locomotive Firemen and Enginemen, put it very aptly before the Senate committee when he said:

The provision that boards of adjustment shall be established by agreement might have little force were it not for the fact that the agreement has been made that the boards shall be established.

Mr. Richberg expressed the same thought before the House committee in these words:

The value of this provision in the law—

He said—

lies in the fact that when it was written into the law the representatives of the carriers and employees, after weeks of discussion back and forth, had come to an agreement that these boards of adjustment should be created.

Sections 6, 7, and 8 relate to the method of procedure in changing rates of pay, rules, and working conditions. The adjustment boards have no jurisdiction over questions arising out of changes in rates of pay, rules, and working conditions. If disputes relating to these matters are not settled in conference or through the services of the board of mediation, then a plan of arbitration is suggested for their settlement. The same plan of arbitration applies also to the settlement of disputes arising out of grievances which are not settled either in conference or by the adjustment boards, or in some other way if the parties agree to settle them in some other way.

The sections relating to arbitration, like the section providing for the boards of adjustment, depend for their operation and effect upon the agreement of the parties to arbitrate, but if they do so agree the sections set forth what their agreement shall contain, and provide that the arbitration award shall be filed in the district court of the United States where the controversy arose or the arbitration is entered into; that that court shall enter judgment on the award; that said judgment shall be final and conclusive on the parties, and bind the respective parties to the award to faithfully execute the same.

The carriers and the employees have succeeded in working out and agreeing upon a method of procedure for the settlement of disputes by arbitration, the outline of which we are asked to place into statutory law, which it is believed will prove to be a distinct step in advance. If they follow up the enactment of this legislation by such agreements for boards of adjustment and arbitration as the bill contemplates, they will have taken a step forward in the settlement of industrial disputes which can not help but augur well for the country and for permanent peace in the railroad industry.

While the provisions relating to adjustment boards and the boards of arbitration depend for their successful operation upon the voluntary action or agreement of the parties, in fact those provisions become effective only if the parties agree to settle their disputes in the manner therein indicated, there are three outstanding provisions of the bill of great importance which are in no way dependent upon the agreement of the parties.

These are—

First. The repeal of Title III of the transportation act of 1920, the Railroad Labor Board title.

Second. The creation of a permanent board of mediation.

Third. The provision for the appointment by the President of an emergency board to investigate a dispute and report thereon in case all other efforts fail to bring about a settlement of it.

Section 4 establishes a permanent board of mediation, to consist of five members appointed by the President.

To assure the appointment to this board of persons of the highest character and ability and of known impartiality and independence the bill provides that no person can become a member of it who is pecuniarily or otherwise interested in any organization of employees or in any carrier, and fixes the salary of the members at $12,000 per year. It is admitted on all sides that a great deal depends for the success of the legislation upon this board of mediation.

It is made the duty of the board of mediation to use its best efforts to persuade the parties to a controversy to agree to settle their differences, and failing in that, to induce them to submit their differences to arbitration in accordance with the provisions of the bill. The board of mediation may act upon its own initiative or upon the initiative of any one of the parties to the dispute.

It has other duties to perform, such as selecting the neutral arbitrator or arbitrators in case the parties agree to arbitrate and the arbitrators selected by the parties can not agree upon the neutral arbitrator or arbitrators.

Another outstanding provision of the bill, which is in no way dependent upon the action or agreement of the parties, is section 10, which provides for the creation of an emergency board, to be appointed in the discretion of the President, in case all other efforts fail to bring about a settlement. If a dispute between a carrier and its employees is not otherwise adjusted and in the judgment of the board of mediation such dispute threatens to deprive any section of the country of essential transportation service, it is the duty of the board of mediation to notify the President thereof, and thereupon he may, in his discretion, create an emergency board to investigate and report respecting the dispute.

Mr. SNELL. Mr. Chairman, will the gentleman yield?

Mr. MAPES. Yes.

Mr. SNELL. Do I understand that there are three separate boards?

Mr. MAPES. The first board is dependent upon the agreement of the parties and is made up of partisans, as the gentleman from Kentucky [Mr. BARKLEY] pointed out. It is a board composed of technicians to settle disputes which arise over differences in interpretation of rules and regulations, and so forth—minor grievances they are called. In addition to these boards of adjustment there are two entirely independent public boards, the board of mediation and the so-called emergency board.

Mr. SNELL. Is there any real authority located in any one of these boards, even the final board appointed by the President?

Mr. MAPES. The authority is to make an investigation and report the findings to the public, if necessary.

Mr. SNELL. It does not go any further than the old labor provision?

Mr. MAPES. There is no compulsion if that is what the gentleman has in mind.

Mr. SNELL. Why is not that a good deal the same as the labor provision and the board in the old bill? They could investigate all these propositions, but they could not do anything.

Mr. MAPES. If the gentleman has the opportunity to study the hearings before the committee on this bill, I think he will become convinced of this fact, that in order to operate successfully and to have the good feeling of the parties to a contest every board which is called upon to make decisions must act independently, or separately, on each individual dispute as it arises, or lose its effectiveness on account of the accumulated prejudice and grievance which naturally arise because of decisions against one party or the other. I am going into that later, however.

Mr. SNELL. Will the gentleman yield again?

Mr. MAPES. Yes.

Mr. SNELL. I appreciate the situation, but my original opposition to the provisions of the old transportation act was that it set up a great deal of machinery but did not accomplish anything when it got through, and I wondered of we were doing exactly the same thing in this bill?

Mr. MAPES. The emergency board is only appointed in the discretion of the President, as a last resort; and if he does not think it is necessary or desirable to appoint it, he will not appoint it.

Mr. LEAVITT. Will the gentleman yield?

Mr. MAPES. I will.

Mr. LEAVITT. Is it not true there is in this bill a board of arbitration provided for under some circumstances that will have power to issue what is practically a court decree?

Mr. MAPES. Oh, yes; but, as I have said, the successful operation of the arbitration provisions depends upon an agreement of the parties to arbitrate. It is hoped that the parties will agree to do so, and they are under moral obligation to enter into agreement for such arbitration if this legislation passes.

Mr. LEAVITT. After they have agreed the board of arbitration has considerably more power than under the old board in the present law. It has an added power under this law?

Mr. MAPES. Yes.

Mr. NEWTON of Minnesota. Will the gentleman yield?

Mr. MAPES. I will.

Mr. NEWTON of Minnesota. Is not this true: Any decision made by any of these different boards is final and binding upon both parties?

Mr. MAPES. Oh, yes; if the parties agree to the adjustment boards and the boards of arbitration as the bill provides.

Mr. SNELL. In just what way is it binding? Is it absolutely final?

Mr. MAPES. If the parties agree to settle grievances through adjustment boards, and the testimony before the committee is that they have already agreed to do so, then the decisions of these boards are final and binding and become enforceable under this law. And the same is true of the boards of arbitration.

Mr. SNELL. Let me ask a concrete question, and the gentleman can explain it to me, anyway. If there is a certain strike on a railroad on the question of wages and they go to these boards and the boards finally decide against the employees, does that mean there will not be any strike and they are bound to accept the decision, or do they go on in just the same way and argue it?

Mr. MAPES. The adjustment boards have no jurisdiction over disputes with respect to changes in pay or wages.

But if the parties enter into the arbitration agreement outlined in the bill and arbitrate their disputes over wages, then the award of the arbitration board becomes final. It is made a judgment of the court and is binding upon the parties and enforceable by court process.

Mr. SNELL. And if they do not agree to start with that it is another proposition?

Mr. MAPES. If they do not agree to arbitration, then the arbitration provisions of the bill are of no effect.

Mr. COOPER of Ohio. If the gentleman will permit, if the conference, mediation, or arbitration fails to settle the dispute, then the President's emergency board comes in with all the power and prestige of the President, another Government official.

Mr. MAPES. I am coming to that, I will say to my colleague on the committee. The emergency board shall be composed of such number of persons as to the President may seem desirable, but, like the board of mediation, no member of it shall be pecuniarily or otherwise interested in any organization of employees or in any carrier. The emergency board shall be created separately in each instance, and it shall investigate promptly the facts as to the dispute and make a report thereon to the President within 30 days from the date of its creation. It is created "separately in each instance," so that there will be no bias or prejudice against it by either party on account of any former action or decision.

After the creation of such board and for 30 days after such board has made its report to the President—

This is the exact language of the bill—

no change, except by agreement, shall be made by the parties to the controversy in the conditions out of which the dispute arose.

That is, when a dispute arises which threatens substantially to interrupt interstate commerce and all efforts have failed to bring the parties to an agreement, the board of mediation reports that fact to the President and he, in his discretion, appoints this emergency board. Then for 60 days thereafter no change except by agreement shall be made by the parties to the controversy in the conditions out of which the dispute arose. We are told that that is further than organized labor has ever before been willing to go, that it has never before been willing to give its consent to the enactment of such a provision into law.

The parties to this agreement, it seems to me, are inclined to shy at the expression, but I think it tends to clearness to speak out bluntly just what this language means to the ordinary layman. For all practical purposes I think it means that there can be no strike or lockout within 60 days after the appointment of the emergency board by the President. As I understand it, the parties differ in their interpretation of the law as to the right to strike under existing law, and the reason why one of the parties, at least, hesitates to say that there can be no strike within 60 days is because of the implication which it thinks it is afraid goes with that expression that there may be one after the 60 days, which it does not admit, but denies.

Mr. Robertson, in a statement on page 290 of the House hearings, states very clearly what the parties who negotiated this agreement meant by the language employed. I will not take the time to read his statement now, but will include it in my remarks:

* * * In order that the committee might know what motivated or prompted the parties in negotiating this article 10, to employ the language that is employed there—and I will say it has not been changed by the attorneys—I will say that we looked at it from a practical point of view. We felt that the public were more interested in preserving continuity of service than in knowing how lawyers believe certain language would probably be interpreted by the courts.

We felt that the word "conditions" very clearly described the situation which would be confronting us when a threatened interruption of interstate commerce occurred. The railroads agreed with us that that word "conditions" meant if they threatened, or, rather, served notice on us of a desire to reduce wages, they would not be permitted to reduce wages during this 60 days mentioned in article 10; if we had sought an increase in wages or a change in conditions—that is, a change in working rules—we agreed as practical men that we could not, nor would we have any reason, for authorizing a strike unless it were to change those conditions; therefore we would not authorize a strike, because no strike was ever authorized, except to change conditions. The only exception that there could be would be that if the railroad disobeyed the law, or, rather, disrespected that particular provision and forced arbitrarily a reduction of wages upon the employees, we felt we would then be justified, perhaps, in authorizing a strike if it was necessary to preserve the conditions, but we would not be changing the conditions.

What do the railroad managers and the railroad employees think of the bill?

The chairman of the committee of railroad executives who negotiated the agreement with the representatives of the labor organizations was Mr. W. W. Atterbury, president of the Pennsylvania system, an executive thought by some to be the arch enemy of labor, or at least of organized railroad labor. He spoke of his appearance before the Senate committee in advocacy of the legislation as "an epoch-making occasion," and then continued (Senate hearings, p. 39):

Never before have I been before a committee of the Senate or of the House that I have not been in opposition on any labor question with those of our employees with whom I have had to live. To-day we come to you with an agreed-upon program. I do not hesitate to say, gentlemen, and I have said it right straight through our negotiations, if we come to you with nothing but a line to show that we have come to tell you in good faith, "We are going to try to work together to the good of the public," and could have put that into a piece of legislation, it would have been satisfactory to me, and it would have been a good accomplishment. To have brought so finished a piece of legislation as we have been able to bring to you, wherein the public is so thoroughly protected, was far beyond any thought that I had in my mind that I could accomplish or could help to accomplish. But at every stage in the game I have been met with the hearty cooperation of the labor leaders, and I would hardly be fair to them if I did not at this time say that they have been perfectly splendid in their position and in their stand and in the cooperation they have given in the preparation of this bill.

The chairman of the committee of the employees in the negotiations with the executives was Mr. D. B. Robertson, president of the Brotherhood of Locomotive Firemen and Enginemen. He told the Senate committee:

The basic value of this proposed legislation lies in its reliance upon the force of contract and not of external compulsion. It is a machinery to promote peace, not a manual of war. Prohibitive commands, fearsome penalties, and threatening gestures would be entirely out of place and inconsistent with the spirit of the proposed act. It is a measure to promote industrial harmony based on collective bargaining and is itself a product of agreement. Neither party is seeking a law to hamper enemies or to favor friends. Both are seeking public ratification of and cooperation in our joint efforts to solve the problems of our industry so as to do justice to all private interests involved and to protect public interests.

Another member of the committee of employees was Mr. William N. Doak, vice president and national legislative representative of the Brotherhood of Railroad Trainmen. He told the Senate committee (p. 43):

These conferences and the results obtained therefrom mark undoubtedly the beginning of an era in industrial understandings, that even one who has so earnestly advocated the policy of frank conferences as the proper step in the solution of labor problems, as has been my case, is amazed at what has been accomplished. I am frank in saying this agreement has so far exceeded what I thought could be accomplished in less than 10 years, that it seems unbelievable that we have been able to agree in less time than 2 years, which has been due wholly to the spirit in which all parties entered the conferences.

Mr. MORTON D. HULL. Will the gentleman yield?

Mr. MAPES. I will.

Mr. MORTON D. HULL. What does the gentleman from Michigan say in reference to the omission of the power to subpœna witnesses and bring them before the emergency board?

Mr. MAPES. The power to subpœna witnesses, as explained in the hearings, would give this board a power which it could not exercise effectively in the 30-day period in which it is required to make its investigation and report. Such power would only be necessary for a board required to make a detailed investigation and report, which it is not the purpose of this emergency board to do. This board is to pass upon the general merits of the proposition only or act as a supermeditation board. In fact it is hoped that this board, when it is appointed, acting as it will as the personal board of the President, will, with the prestige and power which it will have

by reason of that fact, be able to get the parties together and persuade them to settle their dispute.

Mr. COOPER of Ohio. Will the gentleman yield?

Mr. MAPES. I hope the gentleman will let me proceed. I do not wish to take up too much time.

Mr. COOPER of Ohio. Just a short question. The emergency board will have power to get all the information it wants from the board of mediation?

Mr. MAPES. Of course, each party will bring forward all the proof that it has. It would at once lose standing with the public if it refused to furnish this emergency board with all the information it had.

Mr. BURTNESS. Will the gentleman yield?

Mr. MAPES. I will.

Mr. BURTNESS. The gentleman from Ohio suggested the board could get the facts from the board of mediation. Is it the gentleman's contention the board of mediation will be at any time a fact-finding board?

Mr. MAPES. No; I think Congress understands that; that is not the purpose of the board of mediation, but the mediation board certainly will give the emergency board the benefit of what information it has.

It is almost impossible, gentlemen of the House, to get the spirit of the men advocating this legislation without reading the hearings in full. Of course, we can not read them here at length, but I do wish to read one or two more extracts from the testimony of Mr. Doak. Listen to this. Here is a practical railroad man, who has been settling these disputes for years under the Erdman Act and under the Newlands Act, and in various ways. He says:

> I am honestly of the belief that there is not a dispute of any character which may arise but what can be settled under the provisions of this bill, if enacted into law; and, besides, when such cases are adjusted harmony and good will between the employers and employees will be preserved.
>
> The rancor, the disappointments and dissatisfactions which usually follow in the wake of forced action or compulsion in any form will be removed by the provisions of this bill and officers and employees will be able to go about their daily tasks in a satisfied fashion if adjustments are made under the provisions of this proposed act. If for no other reason that it will preserve harmonious relations and tend to restore confidence, good will, and respect for each other this bill should be enacted into law.

And then he said:

> It assures industrial peace by right and not by force or might.

A specious argument has been made by some against the bill on the alleged ground that it does not sufficiently protect the public. Assuming that it is satisfactory to railroad management and railroad labor, the question is asked, What protection does it give the public? A personal correspondent in a letter to me reiterates the expression that the public interest is entirely sacrificed in the provisions of the bill; and yet I know of few persons who are as much interested in uninterrupted transportation service as this very correspondent and the interests which he represents. Of course, it is the duty of Congress to protect the public. That may be taken as fundamental. There is no justification for the passage of any law that is not in the public interest. Opinions may differ as to whether or not any given piece of proposed legislation is really in the public interest, but I assume that no Member of Congress would attempt to justify his vote upon it upon any other basis.

In those cases where the argument against the bill on the ground of public interest is not wholly specious, it is to my mind largely academic or without reasonable justification. It is based upon a fear that something may happen which there is no reasonable possibility of happening. It is based upon the assumption that railroad managements will enter into an agreement with railroad labor to pay greater wages than ought to be paid or that an arbitration award, through fraud or otherwise, may grant the same and thereby cause an unjust burden on the shipping and traveling public.

One might naturally ask, When did such a thing ever happen? What reason is there to believe that it is any more likely to happen in the future than in the past? Will not the personal and competitive interests of the railroad managements, in the future as in the past, require that they resist with all the force at their command any and all undue advance in wages?

And if, perchance, there should be an unwarranted increase in wages, either by agreement of the parties or by reason of an arbitration award, what would those who oppose this bill on the possibility of that happening do about it other than can now be done under the transportation act? In the fixing of rates the Interstate Commerce Commission is directed to take into consideration the honesty, efficiency, and economy of the management of the roads, and in considering economy of management it is required to consider the reasonableness of the wages paid.

The language of the Supreme Court in the case of Wilson against Nye (the Adamson law case) clearly says that Congress has not the power, even under the interstate-commerce clause of the Constitution, to set aside an agreement of the parties as to wages; that Congress can only fix wages in order to prevent an interruption of interstate commerce when the parties themselves fail to agree. Those who argue that Congress has the power to set aside a wage agreement admit that the language of the Supreme Court in this case is clearly to the contrary, but they say that that part of the opinion was not necessary for a decision of the issues in the case, and if the facts were fully put before the court in a case directly involving that point the court would, in their opinion, hold differently.

However that may be, does anyone believe that railroad management will willingly consent to an unwarranted increase of wages, thereby reducing the net return of the carriers in view of the difficulties which exist under normal conditions in getting an order for increased rates from the Interstate Commerce Commission? Granting, for the sake of the argument, the power of Congress to set aside a wage scale fixed by agreement of the parties or after an arbitration award as outlined in this bill, is there anyone who seriously believes as a practical matter that any governmental authority could do it, or would attempt it, if it could?

As Colonel Thom, general counsel of the Association of Railway Executives, before the Committee on Interstate and Foreign Commerce, well said in House hearings, p. 386:

> * * * Suppose for an instant that you had a public body with power to visa and to suspend or annul wage agreements. Suppose that that was unsatisfactory to the men who were furnishing you with the transportation absolutely essential to yourself and your constituents. Then they are to strike against such a decision, as they could strike against the refusal of the management. What would you do about it?
>
> How would you enforce it? Immediately you have got to go down that road to compulsion and use the whole power of the Government.
>
> If you say that this present plan as to the effect which you apprehend is unduly burdening the public that you represent, then your course is clear. You have got the governmental power to deal with that situation, but you have got to deal with it by compulsion. You can not deal with it by half compulsion.

Mr. BLANTON. Mr. Chairman, will the gentleman yield there?

Mr. MAPES. I prefer not to yield. I have already taken more time than I intended to take.

Others may think otherwise, but I for one do not believe that any big industrial undertaking, such as the railroads are, can be successfully operated under force of compulsion.

Waiving the fact that no inconsiderable part of the public, that part represented by the railroads and their nearly 2,000,000 employees with their dependents, amounting in all to approximately 10,000,000 persons, is directly interested in the advocacy of this bill, it is in the interest of the rest of the public to have legislation passed which will best furnish the country with uninterrupted transportation at reasonable cost. In the opinion of your committee this will help to do that. Your committee recognizes the paramount interest of the public, and in full recognition of that interest it advocates the passage of this bill substantially as agreed upon by the parties. [Applause.]

Mr. KETCHAM. Mr. Chairman, will my colleague yield there?

Mr. MAPES. Yes.

Mr. KETCHAM. The question of the public interest seems to go directly to the point, first, of securing uninterrupted service, and, in the second place, satisfactory wage agreements. I would like to have the gentleman answer definitely and specifically as to these points: Does he think that the public interest is served better by the provisions of this bill in both these particulars than by any other piece of legislation that we have now or have had heretofore?

Mr. MAPES. By long odds. I think that the hearings had before this committee furnish one of the best discussions of the question of the proper way to settle industrial disputes of anything that I know of, from the practical standpoint, and I am inclined to be enthusiastic over the agreement which has been reached by the parties directly involved in railroad disputes. I think, as the proponents of this legislation have said, that the Congress of the United States will take upon itself a great responsibility if it should seek to dissipate the enthusiasm which the parties to this agreement have of its successful oper-

ation by any substantial amendment. It is a greater responsibility than I want to take to disturb the arrangement that has been made.

Mr. KETCHAM. One further question, if the gentleman will permit. The gentleman has made an interesting reference to the fine spirit that has been shown by the men appearing here representing the various groups. May I ask the gentleman how long a period is covered by these hearings in which these people testified?

Mr. MAPES. About four weeks; and the negotiations between the parties covered over a year.

Mr. KETCHAM. And the gentleman believes that this bill forms the very best hope for the settlement of future disputes that can be held out?

Mr. MAPES. I answer that unreservedly, yes.

Mr. SNELL. Mr. Chairman, will the gentleman yield?

Mr. MAPES. Yes.

Mr. SNELL. Does the gentleman believe that this bill takes away from the Interstate Commerce Commission any power that it now possesses?

Mr. MAPES. Not a particle.

Mr. BLANTON. Mr. Chairman, will the gentleman yield?

Mr. MAPES. I hope the gentleman will let me close.

Mr. BLANTON. The members of the committee are the ones that we expect to get information from. If they deny us the right to ask questions, the balance of us are in a terrible fix.

Mr. MAPES. On that basis I will yield to the gentleman. [Laughter.]

Mr. BLANTON. I am not going to ask the gentleman any question that he can not answer. Does the gentleman deny that the Congress of the United States has the right to provide for compulsory arbitration? Do you deny that, as a matter of law?

Mr. MAPES. Well, my individual opinion on that point may not be very controlling. It is a disputed question. We had before our committee two of the ablest lawyers in the United States. I think it would be only fair to say that one of them thinks Congress has not the power, and the other thinks Congress has.

Mr. BLANTON. The Supreme Court is the last word on law, is it not?

Mr. MAPES. Is that the only question the gentleman wants to ask me?

Mr. BLANTON. And the Supreme Court in the case of Wilson against New, in the last paragraph of its decision reversing that case and remanding it to the lower court, held the Congress has the power, in such an interstate commerce emergency as was presented in the case under the Adamson law, not only to force compulsory arbitration but it held that the Congress has the power to fix wage matters.

Mr. MAPES. Of course, that is the gentleman's statement and we will let it stand at that.

Mr. BLANTON. I am going to read from that decision in my own time.

Mr. NEWTON of Minnesota. The opinion was rendered by a divided court.

Mr. MAPES. Yes.

Mr. CARTER of Oklahoma. Was that the question before the court?

Mr. BLANTON. Yes; that was the question before the court.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. BLANTON. Mr. Chairman, I make the point of no quorum. We have worked hard to-day. We ought to have a chance to sign our mail and visit with our constituents who are attending the teachers' convention here.

Mr. PARKER. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. MADDEN, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee having had under consideration the bill (H. R. 9463) to provide for the prompt disposition of disputes between carriers and their employees, and for other purposes, had come to no resolution thereon.

THE DEFICIENCY BILL

Mr. MADDEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 8722) making appropriations to supply urgent deficiencies in certain appropriations for the fiscal year ending June 30, 1926, and prior fiscal years, to provide urgent supplemental appropriations for the fiscal years ending June 30, 1926, and June 30, 1927, and for other purposes, and further insist upon the disagreement of the House to the Senate amendments and agree to the conference asked by the Senate.

The SPEAKER. The gentleman from Illinois asks unanimous consent to take from the Speaker's table the bill H. R. 8722, the deficiency bill, further insist upon its disagreement to the Senate amendments, and agree to the conference asked by the Senate. Is there objection?

There was no objection.

The SPEAKER. The Chair appoints the following conferees: Messrs. MADDEN, ANTHONY, and BYRNS.

MILITARY RESERVATIONS

Mr. HILL of Maryland. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman from Maryland rise?

Mr. HILL of Maryland. Mr. Speaker, I ask unanimous consent that I may have until midnight to-night to file a report from the Committee on Military Affairs on the bill S. 1129.

Mr. O'CONNOR of Louisiana. Mr. Speaker, reserving the right to object, is this for the purpose of taking up under suspension of the rules a military bill that is before that committee in regard to the sale of military reservations, and so forth?

Mr. HILL of Maryland. I will say to the gentleman I want to put the bill on the Consent Calendar.

Mr. O'CONNOR of Louisiana. That is rather equivocal as an answer. Does the gentleman intend to take it up under suspension?

Mr. HILL of Maryland. I do not know.

Mr. BLANTON. There is no corollary of any face-the-facts business in this?

Mr. HILL of Maryland. I will say to the gentleman there is not any.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

ENROLLED BILLS SIGNED

Mr. CAMPBELL, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles, when the Speaker signed the same:

H. R. 97. An act authorizing an expenditure of $50,000 from the tribal funds of the Indians of the Quinaielt Reservation, Wash., for the improvement and completion of the road from Taholah to Moclips on said reservation;

H. R. 5013. An act extending the time for the construction of the bridge across the Mississippi River in Ramsey and Hennepin Counties, Minn., by the Chicago, Milwaukee & St. Paul Railway;

H. R. 5850. An act authorizing an appropriation for the payment of certain claims due certain members of the Sioux Nation of Indians for damages occasioned by the destruction of their horses;

H. R. 6376. An act to amend the act for the relief of contractors and subcontractors for the post offices and other buildings and work under the supervision of the Treasury Department, and for other purposes, approved August 25, 1919, as amended by act of March 6, 1920; and

H. R. 6727. An act to authorize the Secretary of the Interior to issue certificates of competency removing the restrictions against alienation on the inherited lands of the Kansas or Kaw Indians in Oklahoma.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to Mr. WOODRUFF (at the request of Mr. MICHENER) for Tuesday and Wednesday, on account of sickness.

ADJOURNMENT

Mr. TILSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 48 minutes p. m.) the House adjourned until to-morrow, Thursday, February 25, 1926, at 12 o'clock noon.

COMMITTEE HEARINGS

Mr. TILSON submitted the following tentative list of committee hearings scheduled for February 25, 1926, as reported to the floor leader by clerks of the several committees:

COMMITTEE ON APPROPRIATIONS

(10 a. m.)

District of Columbia appropriation bill.

COMMITTEE ON THE CENSUS

(10.30 a. m.)

For the apportionment of Representatives in Congress amongst the several States under the Fourteenth Census (H. R. 111, 413).

To carry out the provisions of Article I of the Constitution (H. R. 398).

For the apportionment of Representatives in Congress among the several States under the Fourteenth Census, reducing the number from 435 to 304 (H. R. 3808).

COMMITTEE ON THE DISTRICT OF COLUMBIA

(10.15 a. m.)

To repeal and annul certain acts of the Public Utilities Commission of the District of Columbia (H. R. 3805), known as the five cent fare bill.

COMMITTEE ON EDUCATION

(10 a. m.)

To create a Department of Education (H. R. 5000 and S. 291) joint hearing with the Senate Committee on Education and Labor.

COMMITTEE ON FOREIGN AFFAIRS

(10.15 a. m.)

To provide for the expenditure of certain funds received from the Persian Government for the education in the United States of Persian students (H. J. Res. 111).

COMMITTEE ON IMMIGRATION AND NATURALIZATION

(10.30 a. m.)

To amend the Immigration Act of 1924 (H. R. 7089 and similar bills).

COMMITTEE ON IRRIGATION AND RECLAMATION

(10 a. m.)

To provide for the storage for diversion of the waters of the North Platte River and construction of the Casper-Alcova reclamation project (H. R. 3993).

COMMITTEE ON THE MERCHANT MARINE AND FISHERIES

(10 a. m.)

Providing for the consolidation of the functions of the Department of Commerce relating to navigation, to establish load lines for American vessels (H. R. 7245).

COMMITTEE ON MILITARY AFFAIRS

(10.30 a. m.)

Department of national defense.

COMMITTEE ON NAVAL AFFAIRS

(10.30 a. m.)

To provide for the equalization of promotion of officers of the staff corps of the Navy with officers of the line (H. R. 7181).

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

371. A letter from the Secretary of the Treasury, transmitting herewith schedules and lists of papers, documents, etc., in the files of this department which are not needed in the transaction of public business and have no permanent value; to the Committee on Disposition of Useless Executive Papers.

372. A letter from the Secretary of the Navy, transmitting copies of two letters of the Major General Commandant United States Marine Corps, No. 2245-75-10, dated November 13, 1925, and December 19, 1925, respectively, and a copy of letter of the board of inspection and survey, Navy Department, EC/AVB, dated December 3, 1925, together with copies of the accompanying lists, in which authority is requested for the disposition of obsolete and useless records and papers; to the Committee on Disposition of Useless Executive Papers.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII,

Mr. WASON: Committee on Disposition of Useless Executive Papers. A report concerning the disposition of useless papers in the Department of the Interior (Rept. No. 358). Ordered to be printed.

Mr. GIFFORD: Committee on Elections No. 3. A report in the contested-election case of H. O. Brown *v.* Robert A. Green (Rept. No. 359). Referred to the House Calendar.

Mr. HILL of Washington: Committee on the Public Lands. H. R. 8646. A bill providing for a grant of land to the county of San Juan, in the State of Washington, for recreational and public-park purposes; with amendments (Rept. No. 360). Referred to the Committee of the Whole House on the state of the Union.

Mr. LEAVITT: Committee on the Public Lands. H. R. 9037. A bill validating certain applications for and entries of public lands, and for other purposes; without amendment (Rept. No. 361). Referred to the Committee of the Whole House on the state of the Union.

Mr. WHITE of Kansas: Committee on Election of President, Vice President, and Representatives in Congress. S. J. Res. 9. A joint resolution proposing an amendment to the Constitution of the United States fixing the commencement of the terms of President and Vice President and Members of Congress, and fixing the time of the assembling of Congress; with an amendment (Rept. No. 362). Referred to the House Calendar.

Mr. MAPES: Committee on Interstate and Foreign Commerce. H. R. 8771. A bill to extend the time for commencing and completing the construction of a bridge across Detroit River within or near the city limits of Detroit, Mich.; with amendments (Rept. No. 363). Referred to the House Calendar.

Mr. HAWES: Committee on Interstate and Foreign Commerce. H. R. 8909. A bill granting the consent of Congress to the county of Barry, State of Missouri, to construct a bridge across the White River; with an amendment (Rept. No. 364). Referred to the House Calendar.

Mr. HAWES: Committee on Interstate and Foreign Commerce. H. R. 8910. A bill granting the consent of Congress to the county of Barry, State of Missouri, to construct a bridge across the White River; without amendment (Rept. No. 365). Referred to the House Calendar.

Mr. NEWTON of Minnesota: Committee on Interstate and Foreign Commerce. H. R. 8950. A bill granting the consent of Congress to the State of Minnesota to construct a bridge across the Minnesota River at or near Shakopee, Minn.; with an amendment (Rept. No. 366). Referred to the House Calendar.

Mr. PARKS: Committee on Interstate and Foreign Commerce. H. R. 9095. A bill to extend the time for commencing and completing the construction of a bridge across the St. Francis River near Cody, Ark.; with amendments (Rept. No. 367). Referred to the House Calendar.

Mr. PARKS: Committee on Interstate and Foreign Commerce. H. R. 9109. A bill to extend the time for the construction of a bridge across the White River; without amendment (Rept. No. 368). Referred to the House Calendar.

Mr. McFADDEN: Committee on Banking and Currency. H. J. Res. 131. A joint resolution authorizing the Federal Reserve Bank of New York to invest its funds in the purchase of a site and the building now standing thereon for its branch office at Buffalo, N. Y.; without amendment (Rept. No. 369). Referred to the House Calendar.

Mr. ELLIOTT: Committee on Public Buildings and Grounds. H. R. 54. A bill authorizing the removal of the gates and piers in West Executive Avenue between the grounds of the White House and the State, War, and Navy Building; without amendment (Rept. No. 370). Referred to the Committee of the Whole House on the state of the Union.

Mr. ELLIOTT: Committee on Public Buildings and Grounds. H. R. 6260. A bill to convey to the city of Baltimore, Md., certain Government property; without amendment (Rept. No. 371). Referred to the Committee of the Whole House on the state of the Union.

Mr. ELLIOTT: Committee on Public Buildings and Grounds. H. R. 7178. A bill authorizing the sale of certain abandoned tracts of land and buildings; without amendment (Rept. No. 372). Referred to the Committee of the Whole House on the state of the Union.

Mr. ELLIOTT: Committee on Public Buildings and Grounds. H. R. 9455. A bill to dedicate as a public thoroughfare a narrow strip of land owned by the United States in Bardstown, Ky.; without amendment (Rept. No. 373). Referred to the Committee on the Whole House on the state of the Union.

Mr. HILL of Maryland: Committee on Military Affairs. S. 1129. An act authorizing the use for permanent construction at military posts of the proceeds from the sale of surplus War Department real property, and authorizing the sale of certain military reservations, and for other purposes; with amendment (Rept. No. 374). Referred to the Committee of the Whole House on the state of the Union.

CHANGE OF REFERENCE

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 4642) for the relief of the persons or companies who advanced money or materials for the construction and

maintenance of an air-mail hangar at Salt Lake City, Utah, for the Post Office Department; Committee on Claims discharged, and referred to the Committee on the Post Office and Post Roads.

A bill (H. R. 4326) to provide for the payment of amounts expended in the construction and maintenance of a hangar and flying field for the use of the Air Mail Service; Committee on Claims discharged, and referred to the Committee on the Post Office and Post Roads.

A bill (H. R. 6488) granting a pension to Mary K. Cook; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of Rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BRAND of Georgia: A bill (H. R. 9722) to amend sections 5549 and 5550 of the Revised Statutes of the United States; to the Committee on the Judiciary.

Also, a bill (H. R. 9723) repealing all laws now in force and effect which will deprive the several States of the United States of the right to fix intrastate freight and passenger rates; to the Committee on Interstate and Foreign Commerce.

By Mr. COLLIER: A bill (H. R. 9724) declaring Eagle Lake, which lies partly within the limits of the State of Mississippi, in Warren County, and partly within the limits of the State of Louisiana, in Madison Parish, to be a nonnavigable stream; to the Committee on Interstate and Foreign Commerce.

By Mr. LAZARO: A bill (H. R. 9725) to promote the production of sulphur upon the public domain; to the Committee on the Public Lands.

By Mr. MAJOR: A bill (H. R. 9726) to equalize and adjust the compensation paid to certain candidates at officers' training camps during the World War; to the Committee on Military Affairs.

By Mr. NEWTON of Minnesota: A bill (H. R. 9727) to amend section 26 of the interstate commerce act; to the Committee on Interstate and Foreign Commerce.

Also, a bill (H. R. 9728) to amend section 204 of the transportation act, 1920; to the Committee on Interstate and Foreign Commerce.

Also, a bill (H. R. 9729) to amend paragraph (1) of section 20a of the interstate commerce act; to the Committee on Interstate and Foreign Commerce.

By Mr. ARENTZ: A bill (H. R. 9730) to provide for an adequate water-supply system at the Dresslerville Indian colony; to the Committee on Indian Affairs.

By Mr. HUDSON: A bill (H. R. 9731) to establish a border patrol for the more efficient enforcement of laws applicable to the international and maritime borders of the United States; to the Committee on the Judiciary.

By Mr. HOOPER: Joint resolution (H. J. Res. 179) authorizing the Federal Reserve Bank of Chicago to enter into contracts for the erection of a building for its branch established in the city of Detroit, Mich.; to the Committee on Banking and Currency.

By Mr. HUDSON: Resolution (H. Res. 147) providing a clerk for the Alcoholic Liquor Traffic Committee; to the Committee on Accounts.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANDREW: A bill (H. R. 9732) granting an increase of pension to Martha A. Smith; to the Committee on Invalid Pensions.

By Mr. CARTER of California: A bill (H. R. 9733) for the relief of Estella Howard; to the Committee on Claims.

By Mr. CARTER of Oklahoma: A bill (H. R. 9734) to make a preliminary survey of Boggy River in Oklahoma with the view to the control of its floods; to the Committee on Flood Control.

By Mr. EDWARDS: A bill (H. R. 9735) for the relief of W. H. Ryan; to the Committee on Military Affairs.

Also, a bill (H. R. 9736) granting a pension to Florence Brunner; to the Committee on Pensions.

By Mr. FLAHERTY: A bill (H. R. 9737) for the relief of Thomas J. Kane; to the Committee on Military Affairs.

By Mr. HOGG: A bill (H. R. 9738) to correct the military record of Richard Brannan; to the Committee on Military Affairs.

By Mr. JOHNSON of Illinois: A bill (H. R. 9739) granting an increase of pension to Cynthia J. Case; to the Committee on Invalid Pensions.

By Mr. KELLY: A bill (H. R. 9740) granting an increase of pension to Harry Penberthy; to the Committee on Invalid Pensions.

By Mr. LEAVITT: A bill (H. R. 9741) granting a pension to Nathaniel M. Gregg; to the Committee on Pensions.

By Mr. McMILLAN: A bill (H. R. 9742) granting an increase of pension to Susan Marsh Williams; to the Committee on Pensions.

By Mr. MENGES: A bill (H. R. 9743) granting an increase of pension to Adeline R. Elcock; to the Committee on Invalid Pensions.

By Mr. PARKER: A bill (H. R. 9744) granting a pension to Mary Evans; to the Committee on Invalid Pensions.

Also, a bill (H. R. 9745) granting an increase of pension to Lucy A. Brown; to the Committee on Invalid Pensions.

Also, a bill (H. R. 9746) granting an increase of pension to Anna Dunkley; to the Committee on Invalid Pensions.

Also, a bill (H. R. 9747) granting an increase of pension to Addie L. Hurd; to the Committee on Invalid Pensions.

Also, a bill (H. R. 9748) granting an increase of pension to Hannah J. Leffingwell; to the Committee on Invalid Pensions.

By Mr. ROBSION of Kentucky: A bill (H. R. 9749) granting a pension to Alex Goins; to the Committee on Pensions.

By Mr. SPROUL of Kansas: A bill (H. R. 9750) granting a pension to Francis M. Davison; to the Committee on Pensions.

By Mr. SUMNERS of Texas: A bill (H. R. 9751) for the relief of Clarence Cleghorn; to the Committee on Claims.

By Mr. TAYLOR of Tennessee: A bill (H. R. 9752) granting an increase of pension to Mary E. Hutson; to the Committee on Invalid Pensions.

By Mr. THURSTON: A bill (H. R. 9753) granting a pension to Julia Etta Martin; to the Committee on Invalid Pensions.

By Mr. TILSON: A bill (H. R. 9754) granting a pension to Flora Williams Senator; to the Committee on Pensions.

By Mr. WATRES: A bill (H. R. 9755) for the relief of Frank Flaherty; to the Committee on Naval Affairs.

By Mr. WATSON: A bill (H. R. 9756) granting an increase of pension to Mary M. Norton; to the Committee on Invalid Pensions.

By Mr. BRAND of Georgia: A bill (H. R. 9757) for the relief of the estate of Henry E. Lawrence; to the Committee on Claims.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

805. By Mr. ABERNETHY: Petition of George Henderson, of Newbern, N. C., asking relief for the surviving members of the United States Military Telegraph Corps of the Civil War; to the Committee on Invalid Pensions.

806. By Mr. CARTER of California: Petition of the Playground Commission of Berkeley, Calif., opposing the proposals of the grazing interests to establish grazing rights in national parks; to the Committee on the Public Lands.

807. By Mr. CULLEN: Resolution by the Metal Trades Council of Brooklyn, by Mr. John McMurray, secretary, opposing the repeal of section 466 of the tariff act; to the Committee on Ways and Means.

808. Also, resolution by the Brooklyn Woman's Club, indorsing the construction of a national gallery of art in the city of Washington; to the Committee on the District of Columbia.

809. By Mr. CURRY: Petition of members of Admiral McCalla Camp, No. 17, United Spanish War Veterans, of Veterans' Home, Napa County, Calif., favoring the enactment of House bill 8132; to the Committee on Pensions.

810. Also, petition of residents of the third congressional district of California, favoring reflooding of lower Klamath Lake, Calif.; to the Committee on Irrigation and Reclamation.

811. By Mr. GALLIVAN: Petition of Mary E. Dolan, governor Massachusetts Chapter, International Federation Catholic Alumnæ, Dorchester, Mass., protesting against Curtis-Reed educational bill; to the Committee on Education.

812. By Mr. MOONEY: Petition of City Council of Cleveland, Ohio, indorsing the Perlman immigration bill; to the Committee on Immigration and Naturalization.

813. By Mr. MORROW: Petition of Spanish War Veterans of Roswell, N. Mex., indorsing House bill 98; to the Committee on Pensions.

814. By Mr. O'CONNELL of New York: Petition of the Metal Trades Council of Brooklyn, N. Y., opposing the repeal of section 466 of the tariff act; to the Committee on Ways and Means.

815. Also, petition of the Post Office Department Post, No. 930, of Ozone Park, Long Island, N. Y., favoring the passage of

House bill 8375; to the Committee on the Post Office and Post Roads.

816. By Mr. O'CONNELL of Rhode Island: Communication from the National Association of Stationary Engineers, Rhode Island branch, protesting against classification of its members as enginemen, as made by the United States Civil Service Commission; to the Committee on the Civil Service.

SENATE

THURSDAY, *February 25, 1926*

(Legislative day of Wednesday, February 24, 1926)

The Senate reassembled at 12 o'clock meridian, on the expiration of the recess.

Mr. JONES of Washington. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Ashurst	Ferris	McNary	Robinson, Ind.
Bayard	Fess	Mayfield	Sheppard
Bingham	Fletcher	Means	Simmons
Blease	Frazier	Metcalf	Smith
Bratton	George	Moses	Smoot
Brookhart	Glass	Neely	Stanfield
Bruce	Goff	Norbeck	Stephens
Butler	Greene	Nye	Swanson
Cameron	Hale	Oddie	Trammell
Capper	Harris	Overman	Tyson
Copeland	Heflin	Pepper	Walsh
Couzens	Howell	Phipps	Warren
Cummins	Jones, Wash.	Pine	Watson
Curtis	Keyes	Ransdell	Weller
Dale	La Follette	Reed, Mo.	Wheeler
Dill	Lenroot	Reed, Pa.	Williams
Ernst	McKellar	Robinson, Ark.	Willis

Mr. JONES of Washington. I desire to announce that the Senator from Nebraska [Mr. NORRIS], the Senator from Illinois [Mr. DENEEN], the Senator from Maine [Mr. FERNALD], the Senator from Minnesota [Mr. SCHALL], and the Senator from California [Mr. JOHNSON] are detained from the Senate on account of illness.

Mr. WALSH. I wish to announce that the Senator from Utah [Mr. KING] is absent from the Senate owing to illness.

The VICE PRESIDENT. Sixty-eight Senators having answered to their names, a quorum is present.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its clerks, announced that the House further insisted upon its disagreement to the amendments of the Senate Nos. 27 and 28 to the bill (H. R. 8722) making appropriations to supply urgent deficiencies in certain appropriations for the fiscal year ending June 30, 1926, and prior fiscal years, to provide urgent supplemental appropriations for the fiscal years ending June 30, 1926, and June 30, 1927, and for other purposes; agreed to the further conference requested by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. MADDEN, Mr. ANTHONY, and Mr. BYRNS were appointed managers on the part of the House at the further conference.

ENROLLED BILLS SIGNED

The message also announced that the Speaker of the House had affixed his signature to the following enrolled bills, and they were thereupon signed by the Vice President:

H. R. 97. An act authorizing an expenditure of $50,000 from the tribal funds of the Indians of the Quinaielt Reservation, Wash., for the improvement and completion of the road from Taholah to Moclips on said reservation;

H. R. 5013. An act extending the time for the construction of the bridge across the Mississippi River in Ramsey and Hennepin Counties, Minn., by the Chicago, Milwaukee & St. Paul Railway;

H. R. 5850. An act authorizing an appropriation for the payment of certain claims due certain members of the Sioux Nation of Indians for damages occasioned by the destruction of their horses;

H. R. 6376. An act to amend the act for the relief of contractors and subcontractors for the post offices and other buildings and work under the supervision of the Treasury Department, and for other purposes, approved August 25, 1919, as amended by act of March 6, 1920; and

H. R. 6727. An act to authorize the Secretary of the Interior to issue certificates of competency removing the restrictions against alienation on the inherited lands of the Kansas or Kaw Indians in Oklahoma.

PETITIONS

Mr. HOWELL presented a petition of sundry citizens of Springview and vicinity, in the State of Nebraska, praying for the passage of Senate bill 98, providing increased pensions to Spanish-American War veterans and their widows, which was referred to the Committee on Pensions.

He also presented the petition of Lee Forby Camp No. 1, Department of Nebraska, United Spanish War Veterans, also numerously signed by sundry citizens in the State of Nebraska, praying for the passage of Senate bill 98, providing increased pensions to Spanish-American War veterans and their widows, which was referred to the Committee on Pensions.

REPORTS OF COMMITTEES

Mr. TYSON, from the Committee on Claims, to which was referred the bill (S. 2215) for the relief of James E. Simpson, reported it without amendment and submitted a report (No. 217) thereon.

Mr. JONES of Washington, from the Committee on Commerce, to which was referred the bill (S. 1897) to reinstate John P. Gray as a lieutenant commander in the United States Coast Guard, reported it without amendment and submitted a report (No. 218) thereon.

Mr. HOWELL, from the Committee on Claims, to which was referred the bill (S. 1747) for the relief of the estate of Henry T. Wilcox, reported it with an amendment and submitted a report (No. 219) thereon.

BILLS AND JOINT RESOLUTION INTRODUCED

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. SHEPPARD:

A bill (S. 3287) relating to the purchase of quarantine stations from the State of Texas; to the Committee on Appropriations.

By Mr. WALSH:

A bill (S. 3288) for the relief of the Malta National Bank, Malta, Mont. (with accompanying papers); to the Committee on Public Lands and Surveys.

A bill (S. 3289) to authorize the taxation of certain interests in lands within reclamation projects; to the Committee on Irrigation and Reclamation.

By Mr. CAPPER:

A bill (S. 3290) to amend an act entitled "An act for the prevention and removal of obstructions and burdens upon interstate commerce in grain, by regulating transactions on grain-future exchanges, and for other purposes," approved September 21, 1922; to the Committee on Agriculture and Forestry.

By Mr. LENROOT:

A bill (S. 3291) for the relief of Ernest Alton; to the Committee on Claims.

By Mr. McNARY:

A bill (S. 3292) granting an increase of pension to Mary E. Clark; to the Committee on Pensions.

By Mr. NORBECK:

A bill (S. 3293) granting an increase of pension to Amalia B. Woodland; to the Committee on Pensions.

By Mr. NEELY:

A bill (S. 3294) granting an increase of pension to Laura E. Evans; to the Committee on Pensions.

By Mr. DILL:

A bill (S. 3295) authorizing the construction of a road in Rainier National Park; to the Committee on Public Lands and Surveys.

By Mr. BRATTON:

A bill (S. 3296) to amend an act approved January 30, 1925 (ch. 117 of the statutes of the Sixty-eighth Congress), authorizing the payment of one-half the cost of the construction of a bridge across the San Juan River near Bloomfield, N. Mex.; to the Committee on Indian Affairs.

By Mr. WHEELER:

A bill (S. 3297) to provide for per capita payments to the Assiniboine and Sioux Indians of the Fort Peck Indian Reservation, Mont.; and

A joint resolution (S. J. Res. 60) authorizing expenditures from the Fort Peck 4 per cent fund for visits of tribal delegates to Washington; to the Committee on Indian Affairs.

PUBLIC UTILITIES COMPANIES (S. DOC. NO. 74)

On motion of Mr. CAPPER, it was—

Ordered, That the annual reports of the following public utility companies in the District of Columbia for the year ending December 31, 1925, heretofore transmitted to the Senate, be printed as a Senate document: Capital Traction Co., Chesapeake & Potomac Telephone Co.,